

FILED 7b 3 2011 (Date)

Iowa Real Estate Appraiser Examining Board

Board / Commission

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD
OF THE STATE OF IOWA

Signature, Executive Officer

IN THE MATTER OF:)

Bruce D. Bemis)
CG02454)

RESPONDENT)

Case No. 09-60

COMBINED STATEMENT OF
CHARGES AND CONSENT ORDER

A. Statement of Charges

1. The Iowa Real Estate Appraiser Examining Board ("Board") has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543D (2009).

2. Respondent is a certified general real estate appraiser in Iowa. He was issued Certificate No. CG02454 on November 23, 2005.

3. Certificate No. CG02454 is currently valid and in good standing, and is scheduled to expire on June 30, 2012.

4. The Board received a complaint in 2009 raising questions about Respondent's alleged disclosure of information in connection with a real estate appraisal. The Board investigated and matter and submitted the appraisal at issue to a Standard Three USPAP review. While the Board concluded the allegations of the complaint were not founded, the appraisal review revealed multiple issues with Respondent's appraisal methodology and adherence to USPAP standards of practice. The Board picked two appraisals from a log and submitted them to review. All three appraisals reveal concerns about Respondent's application of all three approaches to value and related USPAP standards.

5. Following investigation, the Board charges Respondent with: (a) repeated failure to adhere to appraisal standards in the development and communication of appraisals; (b) failure to exercise reasonable diligence in the development, preparation and communication of appraisals; and (c) demonstrating negligence or incompetence in the development, preparation and communication of appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1) (2009), and 193F Iowa Admin. Code 7.2, 7.3(2)(c), (d), 7.3(6)(a), and 7.3(7)(a).

6. The Board and Respondent have agreed to fully resolve these charges through the following Consent Order, rather than proceed to contested case hearing.

7. The Respondent denies the allegations, but does agree to comply with the Consent Order to resolve disputed matters.

B. Settlement Agreement and Consent Order

8. Respondent has a right to a hearing on the charges, but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order. This Consent Order constitutes discipline against the Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

9. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board while presenting it.

10. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations.

11. This Combined Statement of Charges and Consent Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2009).

12. Failure to comply with the provisions of this Order shall be grounds for further disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2009). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

13. This Order is subject to approval of the Board: (a) If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter; (b) If the Board approves this Order, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED:

A. Education

Respondent shall complete by July 1, 2011 a 15-hour, tested, AQB approved USPAP course. The course may be taken online. Respondent may use this course for continuing education, but is cautioned that the 15-hour course will not satisfy the requirement that he complete a 7-hour USPAP update course for his 2012 renewal. Respondent shall forward to the Board a certificate of completion to within 10 calendar days of completion.

B. Restriction

Respondent has voluntarily agreed to restrict his practice to residential (up to 4-unit dwellings) and agricultural appraisals. He shall not perform commercial appraisals, except upon further order of the Board.

C. Log and Review

1. Within 90 days of completing all education, Respondent shall submit a log to the Board of all appraisals completed for the two month period after the completion of all education. The Board shall select two appraisals for review.
2. Section A provides the deadline within which education must be completed. Respondent is free to escalate the time frame by completing the education earlier than the deadline.
3. The Board will retain a certified appraiser to complete Standard Three reviews on the appraisals selected for review. The Respondent shall provide the Board, within 10 days of request, five copies of the appraisals and associated work files, and the sum of \$600 to be paid by the Board to the retained appraiser. The cost of two reviews of agricultural appraisals is likely to exceed \$600, but Respondent is only required to pay the total of \$600.
4. The reviewing appraiser shall complete a comprehensive Standard Three review for each appraisal. The review shall be for facial compliance with USPAP. The reviewer will not perform inspections or warrant the accuracy of Respondent's work product, but will review work papers, calculations and any other documents reasonably needed. Along with appraisal reports and work files, Respondent shall provide the reviewing appraiser copies of all documents verifying the accuracy of factual representations in each appraisal. Information requested may include documentation of paired sales analysis, documentation of support for site values, and the like. The costs associated with desk review are the responsibility of the Respondent, but are capped at \$600, as noted above.
5. The reviewer shall prepare written comments on each appraisal's compliance with USPAP, and shall provide copies of the written comments to the Board and the Respondent.
6. At the next meeting following the Board's receipt of the two review appraisals, the Board shall enter an order indicating Respondent's full compliance with this Consent Order, or, if the desk review comments and appraisals reveal significant USPAP violations, the Board shall defer final ruling and may order additional education or desk reviews, or other rehabilitative measures. No such order will be issued without affording Respondent reasonable notice and an opportunity to request hearing.
7. Respondent shall be permitted to continue supervising his associate while completing this Consent Order and is encouraged to integrate the associate into his education plan to their mutual benefit.
8. This settlement shall not preclude the Board from filing additional charges if one or more of the appraisals submitted for desk review demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports or appraisals

subject to desk review shall not constitute "personal investigation" or otherwise disqualify a Board member from acting as a presiding officer in any subsequent contested case.

AGREED AND ACCEPTED:

The Respondent

The Iowa Real Estate Appraiser Examining Board

[Redacted Signature]

Bruce Bemis

[Redacted Signature]

Michael Lara, Chair

1-25-2011
Date

2/3/11
Date

Department of Commerce
Professional Licensing Bureau
FILED July 21, 2011 (Date)
IA RE Appr Ex.
Board
[Redacted]
Signature, Executive Officer

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD

IN THE MATTER OF:)	Case No. 09-60
)	
Bruce Bemis)	
CG02454)	RELEASE OF PROBATION IN
Respondent)	A DISCIPLINARY CASE

The Iowa Real Estate Appraiser Examining Board, having reviewed the records in the above captioned file, finds that Respondent has complied with terms of his probation and should be released. The Board voted unanimously to release probation on July 21, 2011.

IT IS THEREFORE ORDERED that the Respondent's probation is released.

[Redacted Signature]

Toni A Bright, Executive Director
Iowa Real Estate Appraiser Examining Board
1920 SE Hulsizer Road
Ankeny, IA 50021
Email: toni.bright@iowa.gov