

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

IN THE MATTER OF:

**MARY DALEY-FULTZ
AR02159**

RESPONDENT

**CASE NO. 02-01, 02-08, 02-11,
02-22, 03-33**

**SETTLEMENT AGREEMENT AND
CONSENT ORDER**

The Iowa Real Estate Appraiser Examining Board (Board) and Mary Daley-Fultz (Respondent) enter into this Consent Order (Order), pursuant to Iowa Code section 17A.10 (2003) and 193F IAC 8.6:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543D, and 272C (2003).

2. Respondent is a registered residential real estate appraiser in Iowa. She was issued Registration No. AR02159 on January 4, 2000. Registration No. AR02159 is currently valid and in good standing, and is scheduled to expire on June 30, 2004.

3. The Board issued a Notice of Hearing and Statement of Charges, alleging in two counts that:

COUNT I: Respondent engaged in a practice harmful or detrimental to the public in violation of Iowa Code sections 272C.10(3), 543D.17(1)(d), (e), and (f), and 543D.18(1) (2001, 2003), and 193F Iowa Admin. Code 7.2(2), (5), and (8), by:

(a) making false, misleading, or deceptive representations in preparing and communicating appraisals;

(b) failing to adhere to the USPAP Ethics and Competency Rules, and in particular, those provisions relating to honesty, impartiality, objectivity, independence, avoiding advocacy, and only performing appraisal assignments within Respondent's sphere of competency;

(c) failing to exercise reasonable diligence in the development, preparation and communication of appraisals;
and,

(d) demonstrating negligence or incompetence in the development, preparation and communication of appraisals.

COUNT II: Respondent repeatedly failed to adhere to appraisal standards in the development and communication of appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1) (2001, 2003), and 193F Iowa Admin. Code 7.2(2) and (5).

4. Respondent does not admit all charges, but agrees the evidence at hearing would support one or more of the charges. Respondent has a right to a hearing on the charges, but waives her right to hearing and all attendant rights by freely and voluntarily entering into this Order. This Order is the final agency order in the contested case.

5. 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.

6. 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 disciplinary action to be imposed in the event of any future violations.

7. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2003).

8. Failure to comply with the provisions of this Order shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2003). However, no action may be taken against Respondent for violations of these provisions without a hearing, or waiver of hearing.

9. 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. Suspension

Respondent's associate registration shall be suspended for a period of one month from the date of this Consent Order based on repeated failure to comply with USPAP.

B. Probation

Following the one month suspension, Respondent's associate registration shall be placed on probationary status, which status shall continue for as long as Respondent holds an associate registration in Iowa, unless expressly released by the Board. While on probation the following terms shall apply:

1. Respondent shall not practice as an associate real estate appraiser except under the supervision of an Iowa certified appraiser who is pre-approved by the Board.

2. Respondent and any proposed supervisor shall make a personal appearance before the Board, or a committee of the Board prior to the Board's approval of the proposed supervisor. Any proposed supervisor shall provide the Board with a written plan of supervision. The Board may request a log of appraisals from any proposed supervisor and select two or more appraisals for review before approving the appraiser as Respondent's supervisor. Any proposed supervisor must be in good standing with the Board and must have practiced as a certified appraiser in Iowa for a minimum of five years. Respondent shall not change supervisors without the Board's prior approval.

3. Respondent shall submit written reports to the Board, by the 10th days of each month outlining for the prior calendar month a detailed log of all appraisals completed, if any. The log shall state the following information for each appraisal:

- a. Property address
- b. Client name, address and phone number
- c. Supervisory appraiser
- d. Purpose of appraisal
- e. Date of inspection
- f. Date of report
- g. Type of report
- h. Estimated market value

4. The Board may periodically select appraisals for Board review from Respondent's log. Respondent shall submit to the Board all appraisals and work files requested within ten business days of the date of the Board's written request to Respondent's address on record at the Board office. Respondent further agrees to make such additional personal appearances before the Board or a Board committee as the Board deems appropriate to monitor Respondent's progress and performance under this Consent Order. The Board may require that Respondent change supervisors if the approved written plan of supervision is not complied with or for other good cause shown.

5. This settlement shall not preclude the Board from filing additional charges if one or more of the appraisals subject to supervision demonstrate probable cause to take such an action, or upon other good cause. Respondent agrees Board member or Board staff participation in the review of reports or appraisals submitted under the terms of this Consent Order shall not constitute "personal investigation" or otherwise disqualify a Board

member from acting as a presiding officer, or disqualify a staff member from advising the Board, in any subsequent contested case.

C. Certification

Respondent shall not be considered for certification as a certified residential real estate appraiser in Iowa until she has practiced as a probationary associate appraiser for a minimum of 18 months from the date of this Consent Order. The only experience Respondent has had prior to the date of this Consent Order which Respondent can apply toward the experience requirement is that which she acquired under the supervision of Richard De Heer. Respondent must satisfy all certification pre-requisites existing at the time of her application and must demonstrate full compliance with all terms of this Consent Order

AGREED AND ACCEPTED:

The Respondent

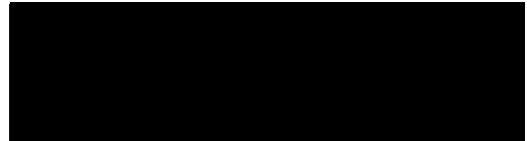


Mary Daley-Fultz

01-29-2004

Date

**The Iowa Real Estate Appraiser
Examining Board**



By: Richard Bruce, Chair

2-12-04

Date