

FILED 9/19/13 (Date)  
IA RE Appr Exam Board

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

Commission  
Signature, Executive Officer

IN THE MATTER OF:	)	
	)	
	)	Case No. 13-28
Samantha Fauser	)	
CR02803	)	NOTICE OF HEARING IN A
	)	DISCIPLINARY CASE
RESPONDENT	)	

The Iowa Real Estate Appraiser Examining Board ("Board") issues this Notice of Hearing pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 543D.17. Respondent Samantha Fauser is a certified residential real estate appraiser in Iowa. She was issued Certificate No. CR02803 on March 9, 2007. Certificate No. CR02803 is currently valid and will next expire on June 30, 2014. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 543D.

**A. TIME, PLACE AND NATURE OF HEARING,  
AND HEARING PROCEDURES**

1. **Hearing.** A disciplinary contested case hearing will be held before the Board on the **29th day of October, 2013 at 1:30 o'clock, p.m.**, at 200 E. Grand, Ste. 350, Des Moines, IA 50309
2. **Answer.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.
3. **Prehearing Conference.** A prehearing conference will be held by telephone on **October 17, 2013, at 2:00 o'clock, p.m.**, before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). You are responsible for notifying the Board office of the telephone number at which you or your counsel can be reached. Board rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.
4. **Presiding Officer.** The full Board shall serve as presiding officer at hearing,

pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Board may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

5. **Hearing Procedures.** Board rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7, and 193F Iowa Administrative Code chapter 8. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. **Default.** If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

7. **Prosecution.** Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Board, with copies mailed to: Assistant Attorney General Pamela Griebel, Iowa Department of Justice, Hoover Building, 2<sup>nd</sup> Fl., and Des Moines, Iowa, 50319. Phone: 515-281-6403; Fax: 515-281-7551; E-mail: [pgriebe@ag.state.ia.us](mailto:pgriebe@ag.state.ia.us).

8. **Respondent's Counsel.** Copies of all pleadings filed with the Board shall be provided to: [Counsel unknown]

9. **Settlement.** The procedural rules governing the Board's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Pamela Griebel.

10. **Communications.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney


General Pamela Griebel, or Toni Bright, the Board's Executive Officer, at 515-281-7468 (until October 11, 2013) or 515-725-9025 (starting October 14, 2013)

**B. STATEMENT OF CHARGES AND CIRCUMSTANCES**

11. The Board found probable cause to file charges on September 19, 2013.
12. The Board issued a disciplinary order against respondent in Case No. 12-35 on February 12, 2013.
13. The order required respondent to reissue all appraisal reports that contain false information and to file a report with the Board within 60 days of February 12, 2013.
14. Respondent has not filed a report with the Board. The Board has been informed that at least some of the reports with false information have not been reissued. The reports falsely stated that respondent inspected properties and failed to disclose the assistance of an associate working on an expired registration.
15. Respondent has accordingly not complied with the Board's disciplinary order in violation of Iowa Code section 272C.3(2)(a).

**This Notice of Hearing and Statement of Charges is filed and issued**

on the 19<sup>th</sup> day of September, 2013.

  
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Toni Bright, Executive Officer  
Iowa Real Estate Appraiser Examining Board  
Current address:  
1920 SE Hulsizer Road  
Ankeny, Iowa 50021  
Address as of October 14, 2013:  
200 E. Grand, Ste. 350  
Des Moines, IA 50309.  
Phone: 515-281-7468 (515-725-9025 starting Oct. 14, 2013)  
Fax: 515-281-7411  
E-mail: Toni.Bright@iowa.gov

Copies to:

Assistant Attorney General Pamela Griebel

Respondent

Department of Inspections and Appeals, assigned Administrative Law Judge

FILED November 13, 2013 (Date)

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

BOARD 13REA03  
Board / Commission

Signature Executive Officer

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IN THE MATTER OF:	)	CASE NO. 13-28
	)	DIA NO. 13REA003
SAMANTHA FAUSER	)	
CR02803	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
RESPONDENT	)	DECISION AND ORDER

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On September 19, 2013, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Samantha Fauser (Respondent). Respondent was charged with failure to comply with a disciplinary order, in violation of Iowa Code section 272C.3(2)(a). A telephone prehearing conference was scheduled for October 17, 2013, but Respondent failed to appear or participate. The hearing was held on October 29, 2013 at 1:40 p.m. Assistant Attorney General Pamela Griebel represented the state of Iowa. Respondent failed to appear for the hearing.<sup>1</sup>

The following Board members presided at the hearing: Gene Nelsen, Appraiser, Chairperson; Caryl Swaim, Appraiser; Amanda Luscombe, Appraiser; Fred Greder, Appraiser; Greg Harms, Appraiser; and Joan Scotter and Lee Schoenewe, public members. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2013) and 193 IAC 7.25(2). After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2013), to deliberate its decision. The Board instructed the administrative law judge to prepare Findings of Fact, Conclusions of Law, Decision and Order for their review, in conformance with their deliberations.

### THE RECORD

The record includes the State's Prehearing Conference Report, the testimony of Executive Officer Toni Bright, and State Exhibits, pp. 1-13.

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<sup>1</sup> Respondent was properly served with the Notice of Hearing by restricted certified mail on September 25, 2013 but failed to appear for hearing. (State Exhibits pp. 1-4). The Board's rules authorized the Board to proceed with the hearing in her absence. 193 IAC 7.6(2), 7.27.

## FINDINGS OF FACT

1. Respondent was initially issued certificate CR02803 to practice as a residential real estate appraiser in Iowa on March 9, 2007. Respondent's certificate is active and will next expire on June 30, 2014. (State Exhibits, p. 5)

2. In 2012, Respondent completed a number of appraisals for one or more financial institutions, many of which were sold on the secondary market. In October 2012, the Board received a complaint alleging that Respondent signed appraisal reports in which she purported to have inspected the properties, but which were actually inspected by a person who held an expired associate registration. The Board received copies of five of Respondent's appraisal reports with the complaint. Respondent did not dispute the accuracy of the complaint with respect to more than one appraisal assignment. Respondent admitted that she had issued a "few" reports stating that she performed an inspection when her husband had performed the inspection on her behalf. She informed the Board of the circumstances of her illness and injury and assured the Board that she would take the steps necessary to assure no such violation in the future. (State Exhibits, p. 5; Testimony of Toni Bright)

3. On April 12, 2013, the Board and Respondent entered into a Combined Statement of Charges and Consent Order. Respondent was charged with:

(a) violating the Ethics Rule of the Uniform Standards of Professional Practice (USPAP) by signing appraisal reports containing false information, in violation of Iowa Code section 543D.17(1)(d)(2011);

(b) making misleading, deceptive, untrue or fraudulent representations in the practice of real estate appraising, and engaging in a practice which is harmful or detrimental to the public and an unethical act, in violation of Iowa Code section 272C.10(3)(2011); and

(c) allowing an undisclosed and unregistered associate to assist in the development of an appraisal assignment that is required by federal policy to be completed by a certified appraiser, in violation of Iowa Code section 543D.20(1)(2011)

(State Exhibits, p. 5; Testimony of Toni Bright)

4. Respondent agreed to fully resolve the charges through a Consent Order, rather than proceeding to contested case hearing. Respondent acknowledged that failure to comply with the provisions of the Consent Order would be grounds for further disciplinary action, pursuant to Iowa Code section 272C.3(2)(a)(2011). (State Exhibits, pp. 5-7)

Pursuant to the terms of the Consent Order, Respondent was:

- reprimanded for repeatedly signing appraisal reports containing false information;
- ordered to pay a civil penalty of \$1,000 within 10 days of the date of the Consent Order; and
- required to take all steps necessary to review her 2012 appraisals and to reissue any appraisal reports that contained false information as described in the Consent Order. Respondent was further required to file a report with the Board, which attested to her compliance with this provision, within 60 days of the date that the Consent Order was signed by all parties.

(State Exhibits, pp. 6-7)

5. Respondent timely paid the \$1,000 civil penalty. (Testimony of Toni Bright)

6. Respondent did not file the required report to the Board, attesting to her compliance with the requirement to reissue any appraisal reports with false information, by its due date of April 13, 2013. On June 18, 2013, the Board's Executive Officer Toni Bright sent Respondent an email notifying her that her submission of the report was past due and directing her to submit the completed report by June 25, 2013. Respondent replied immediately with the following email:

I am so sorry, this was such a crazy experience, I must have missed that entirely. Is there a specific form I am supposed to fill out or a certain way to go about this?

Ms. Bright responded immediately and informed Respondent that there was no specific form and that the Board needed a report stating how she has complied. Ms. Bright also informed Respondent that her husband's associate registration remained expired and had never been reinstated. (State Exhibits, pp. 8-9; Testimony of Toni Bright)

7. Respondent did not submit the report attesting to her reissuance of the appraisal reports containing false information. On July 11, 2013, Toni Bright sent Respondent a certified letter. The letter informed Respondent that the Board still had not received her report. Ms. Bright provided Respondent the link enabling her to view the Consent Order online. Ms. Bright's letter warned Respondent that in order to avoid possible disciplinary charges, she must provide the required information by July 29, 2013. Respondent signed for the certified letter on July 19, 2013 but did not respond to it. (Testimony of Toni Bright; State Exhibits, pp. 10-12)

8. On August 9, 2013, Toni Bright determined that Respondent still had not reissued any corrected appraisal reports to the bank that filed the complaint. As of the first part of October 2013, the bank still had not received any reissued reports from Respondent. (Testimony of Toni Bright; State Exhibits, p. 13)

### CONCLUSIONS OF LAW

Iowa Code section 272C.3(2)(a)(2011, 2013) authorizes the Board to revoke or suspend a license upon failure of the licensee to comply with a decision of the board imposing licensee discipline. The preponderance of the evidence established that Respondent failed to fully comply with the terms of the Combined Statement of Charges and Consent Order, which was issued on February 12, 2013. As of the date of the hearing, Respondent still had not reissued the appraisal reports that contained false information about the person performing the inspections, and she still had not submitted a report to the Board attesting to her compliance with this requirement. The Board has given Respondent ample opportunity to comply. Respondent's failure to comply with the Consent Order and her failure to respond to the Notice of Hearing has left the Board with no choice but to indefinitely suspend her certificate.

### DECISION AND ORDER

**IT IS THEREFORE ORDERED** that Iowa Real Estate Appraiser Certificate No. CR02803, issued to Respondent Samantha Fauser, is hereby **SUSPENDED effective immediately upon service of this Decision and Order.**

**IT IS FURTHER ORDERED** that the certificate **SUSPENSION** will remain in effect until Respondent:

- 1) Fully complies with the terms of the February 12, 2013 Consent Order by:




- reviewing all of her 2012 appraisal reports and reissuing all appraisal reports that contained false information about the identity of the person performing the inspections; and
- filing a written report with the Board attesting to her compliance with the Consent Order by correcting and reissuing all false appraisal reports.

2) Provides the Board with copies of all of the 2012 appraisal reports that were corrected and reissued to clients; and

3) Files a reinstatement application and demonstrates to the Board that the reason for the suspension no longer exists and that it is in the public interest for her certificate to be reinstated. See 193 IAC 7.38.

**IT IS FURTHER ORDERED**, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

Dated this 13<sup>th</sup> day of November, 2013

  
Gene Nelsen, Appraiser  
Chairperson  
Iowa Real Estate Appraiser Examining Board

cc: Samantha Fauser, 13056 120<sup>th</sup> Street, Greene, Iowa 50636 (Restricted Certified)  
Pamela Griebel, Assistant Attorney General, Hoover State Office Building (Local)

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final Board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, and the affidavit(s) must be attached to the motion to vacate. 193 IAC 7.27(3)