

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

Department of Commerce
Professional Licensing Bureau

FILED 7/24/09 (Date)

Jane R.E. App. Exam Board
Board / Commission

Signature, Executive Officer

IN THE MATTER OF:)

William H. Luksetich)
CR01244)
Luksetich Appraisals, Inc.)
4840 Asbury Road, Suite 5)
Dubuque, IA 52002)

CASE NO. 08-24

COMBINED STATEMENT OF CHARGES
AND CONSENT ORDER

RESPONDENT)

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 (2007).
2. Respondent is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR01244 on January 6, 1992.
3. Certificate No. CR01244 is currently valid and in good standing, and is scheduled to expire on June 30, 2009.
4. In July 2008, the Board received a complaint alleging that an appraisal report completed by Respondent failed to comply with applicable appraisal standards. The Board submitted the appraisal to a Standard Three USPAP review that revealed significant violations of USPAP standards. The Board requested a log and selected two additional appraisals for review. The Standard Three reviews of the additional appraisals also revealed USPAP violations, particularly of reporting 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) (2007), and 193F Iowa Admin. Code 7.3(2)(d), (e) and 7.3(6)(a), (b).
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 does not admit all 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 his 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 (2007).

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) (2007). 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 the following educational courses by August 30, 2009, and shall forward certificates of completion to the Board within 10 calendar days of completion. All education may be counted toward the continuing education required for certificate renewal, but Respondent is cautioned that the 15-hour tested USPAP course is not a substitute for the required USPAP update course. The report writing course listed below will satisfy the report writing class requirement for the 2009 renewal if completed by June 30, 2009. The classes listed in (2) – (4) below must be the approved courses for those currently seeking certification.

- (1) a 15-hour tested USPAP course;
- (2) a 30-hour qualifying education course on residential sales comparison and income approach;
- (3) a 15-hour qualifying education course on appraiser site valuation and cost approach; and,

- (4) a 15-hour qualifying education course on residential report writing and case studies.

B. Probation and Desk Review

- (1) Respondent's certificate is placed on probationary status until the terms of this Consent Order have been fully complied with, and Respondent has been released from probation by Board order.
- (2) The dates set forth above provide the deadlines within which education must be completed. Respondent is free to escalate the time frames by completing the education earlier than the deadlines.
- (3) For as long as Respondent is on probationary status, he shall submit a monthly log of all appraisals he has completed, providing a written log by the 10th of each month for the preceding month.
- (4) After receiving copies of the course completion certificates of all the required education, the Board shall select one report from the Respondent's log for Standard 3 review each month. The Board will communicate the request to the Respondent, who shall provide six copies each of the requested appraisal and work files in the time period specified, accompanied by a \$150 fee per report for the cost of completing the Standard Three review.
- (5) The reviewing appraiser shall be selected by the Board and shall perform a Standard Three desk review of each appraisal report submitted. 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 draft appraisal if requested. Information requested may include documentation of paired sales analysis, documentation of support for site values, and the like.
- (6) The reviewer shall prepare written comments on each appraisal's compliance with USPAP, and shall provide copies of the written comments to the Board, who will forward the reviews to the Respondent so that he may implement the suggested changes before submitting additional reports. If the reviewer's comments conclude that a previously issued appraisal was misleading or otherwise significantly out of compliance with USPAP, Respondent shall reissue the report and provide the Board a copy of the reissued report. In any reissued report, the Respondent shall disclose the appraisal assistance of the desk reviewer.
- (7) Respondent shall submit six appraisal reports to the Board for Standard Three review before filing an application for release from probation. The Board may select more than one appraisal for review per month, at Respondent's request.
- (8) Upon Respondent's request to be released from probation, the Board shall release probation if the desk review comments and appraisals do not reveal

significant USPAP violations and Respondent has complied with all terms of this Consent Order. The Board intends the reviews to be educational and shall accordingly give most weight to the later reviews.

- (9) If the desk review comments and/or appraisals do reveal significant USPAP violations, the Board shall continue Respondent's probation on such terms as will address the issues revealed in desk review. The Board may accordingly 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 on such additional probationary terms.
- (10) If Respondent has not applied for release from probation after completing six desk reviews, the Board may request that Respondent meet with the Board's Disciplinary Committee for a status conference and plan for the future.
- (11) This settlement shall not preclude the Board from filing additional changes 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.
- (12) Until released from the desk review process, Respondent agrees he shall not act as a review appraiser and shall not co-sign appraisals with any other associate or certified appraiser. Respondent shall not supervise the work product of an associate appraiser or unlicensed appraiser until released from desk review.

AGREED AND ACCEPTED:

The Respondent

[Redacted Signature]

William H. Luksetich

May 13, 2009
Date

**The Iowa Real Estate Appraiser
Examining Board**

[Redacted Signature]

Michael Lara, Chair

5/24/09
Date

