

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

**IN THE MATTER OF:**

**Kenneth M. Mallas  
CG01769  
Maynes Real Estate  
1206 8<sup>th</sup> Street  
Lenox, IA 50851**

**RESPONDENT**

**CASE NO. 08-28**

**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. CG01769 on June 17, 1997.

3. Certificate No. CG01769 is currently valid and in good standing, and is scheduled to expire on June 30, 2009.

4. In October 2008, the Board received a complaint alleging that an appraisal report completed by Respondent failed to comply with applicable appraisal standards and substantially overvalued subject property. The Board submitted the appraisal to a Standard Three USPAP review and a retrospective appraisal, both of which revealed significant violations of USPAP standards and value inflation. 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, although Respondents more recent work product did not reveal the same nature of ethical issues associated with the appraisal submitted with the complaint.

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, and (d) gross negligence resulting in misleading appraisal, in violation of Iowa Code sections 272C.10(2), (3), 543D.17(1)(d), (e), and (f), and 543D.18(1) (2007), and 193F Iowa Admin. Code 7.3(2)(b), (c), (d), (e), 7.3(4)(c), 7.3(6)(a), (b), and 7.3(7).

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 December 31, 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 class listed in (2) below must be the approved qualifying education courses for those seeking certification and must be taken in a classroom environment.

- (1) a 15-hour tested USPAP course;
- (2) a 15-hour residential site valuation and cost approach course;
- (3) a 30-hour residential sales comparison and income approach course, and;
- (2) a 15-hour residential report writing and case studies course.

## **B. Probation and Desk Review.**

(1) **Probation.** Respondent is placed on indefinite probation and subject to the following terms and conditions:

(2) **Desk Review.**

**a. Pre-education 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) On or before June 1, 2009, Respondent shall either cease his appraisal practice or enter into a supervisory agreement with a certified appraiser who is pre-approved by the Board.

(3) Respondent shall submit a copy of the supervisory agreement to the Board no later than June 15, 2009. The agreement may be in letter-form, but Respondent must attach a copy of the Consent Order to assure his supervisor is familiar with the terms of this Order.

(4) Until such time as Respondent has verified that he has completed all education required by this Consent Order, Respondent shall only perform appraisal services under the direct supervision of his approved supervisor. Respondent shall not submit any appraisal report to a client unless the appraisal assignment was directly supervised by his supervisor and the report is co-signed by his supervisory appraiser.

(5) During the time period in which Respondent is supervised by his approved supervisor, Respondent shall submit weekly logs to the Board reflecting the date, address, and client of all appraisal assignments. Respondent may email the log to the Board each Monday reflecting the prior week's appraisals. The Board may request one or more reports from the Respondent's log for review. Respondent shall supply the Board, within 5 days of the Board's request copies of Board-identified appraisal reports with complete work files and such additional information as may be needed to verify the factual accuracy of the reports.

**b. Post-education Desk Review**

(1) Respondent shall continue submitting weekly logs to the Board office. The Board will periodically select appraisals for review by a Board selected desk reviewer. Respondent shall be responsible for paying up to \$150 per desk review, up to a total of six (6) reviewed appraisal reports. All desk review reports will be submitted to Respondent for educational purposes. If the desk reviewer's comments reveal significant USPAP violations that render misleading the previously issued appraisal report, Respondent shall correct and reissue the appraisal report to the client. In the event a report is reissued, Respondent shall disclose the professional assistance of the desk reviewer in the reissued report.

(2) Respondent shall supply the Board, within 5 days of the Board's e-mailed request, copies of Board identified appraisal reports with complete work files and such additional information as may be needed to verify the factual accuracy of the reports.

(3) Respondent may apply for release from probation after a minimum of six appraisal reports have been desk reviewed. If the desk review comments do not reveal significant USPAP violations and Respondent has fully complied with this Consent Order, the Board shall release Respondent from probation. 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. The Board intends the reviews to be educational and shall accordingly give most weight to the latter reviews.

(4) Within 20 days after Respondent's receipt of 6 desk review reports, he shall apply for release from desk review, cease his appraisal practice, or request the Board to extend the number of desk reviews to be performed under this Consent Order. It is the Board's intent that the desk review process be educational. If, however, Respondent's reports continue to reflect significant USPAP violations after 6 reviews, the Board may extend the desk review process or, depending on the nature of the continued violations, require Respondent to resume a supervisory relationship. The Board retains the discretion to order alternative relief as may be warranted in the circumstances.

(5) This settlement shall not preclude the Board from filing additional changes if the Board receives a complaint or if any of the appraisals developed under this consent Order demonstrate probable cause to take such an action. Respondent agrees Board review of desk review reports, appraisals, and work files in the board's monitoring of Respondent's probation 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**



**Kenneth M. Mallas**

**Date**

**The Iowa Real Estate Appraiser  
Examining Board**



**Michael Lara, Chair**

**Date**

*8/29/09*

FILED May 18, 2010 (Date)

BEFORE THE IOWA REAL ESTATE APPRAISER EXAMINING BOARD

IA RE Appr.  
Board / Commission  
Ex. Board

[Redacted Signature]

Signature, Executive Officer

IN THE MATTER OF:

Case No. 08-28

Kenneth Mallas  
Respondent

RELEASE OF PROBATION IN  
A DISCIPLINARY CASE

The Iowa Real Estate Appraiser Examining Board, having reviewed the records in the above captioned files, finds that Respondent has complied with terms of his probation and should be released. The Board voted unanimously to release probation on May 18, 2010.

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

[Redacted Signature]

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