

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

IN THE MATTER OF:)

M. Charles Mirocha)
CG02212)
Datasource Appraisal)
630 River Drive)
Bettendorf, Iowa 52722)

CASE NO. 07-25

CONSENT ORDER

RESPONDENT)

The Iowa Real Estate Appraiser Examining Board (Board) and M. Charles Mirocha (Respondent) enter into this Consent Order (Order), pursuant to Iowa Code section 17A.10 (2007) and 193 Iowa Administrative Code 7.42:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543D, and 272C (2007).
2. Respondent is a certified general real estate appraiser in Iowa. He was issued Certificate No. CG02212 on February 25, 1999.
3. Certificate No. CG02212 is currently valid and in good standing, and is scheduled to expire on June 30, 2009.
4. The Board filed its Notice of Hearing and Statement of Charges on October 9, 2008. Hearing is currently set for December 17, 2008.
5. The Board charged Respondent with:
 - a. repeatedly failing to adhere to appraisal standards in the development, preparation, and communication of multiple appraisals; failure to exercise reasonable diligence in the development, preparation, and communication of multiple appraisals; negligence or incompetence in the development, preparation, and communication of multiple appraisals, in violation of Iowa Code sections 543D.17(1)(d), (e), and (f), and 543D.18(1), (2), and 193F Iowa Administrative Code sections 7.2, 7.3(2)(a), (b), (c), (d), (e), 7.3(5)(d), 7.3(6)(a), 7.3(7)(a), and 7.3(8); and,
 - b. practices harmful or detrimental to the public and repeatedly demonstrating, through lack of education, negligence, carelessness or omissions, or intentional acts, a lack of qualifications to assure the public a high standard of professional care in violation of Iowa Code sections 272C.3(2)(b), and 272C.10(3).
6. Respondent denies the allegations of the Statement of Charges, but agrees to enter into this Consent Order as the resolution of a disputed matter. Respondent acknowledges he has a right to a hearing on the charges, but waives his 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.

7. 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.

8. 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.

9. This Order and the Notice of Hearing are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2007).

10. Failure to comply with the provisions of this Order shall be grounds for 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.

11. 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; and (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 April 1, 2009, and shall forward certificates of completion to the Board within 10 calendar days of completion. Courses must be taken in a classroom environment and may be counted toward the continuing education required for certificate renewal.

- (1) a 15-hour tested USPAP course;
- (2) a 30-hour course on general appraiser site valuation and cost approach; and,
- (3) a 30-hour course on general appraiser 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) On or before December 1, 2008, Respondent shall enter into a desk review consultation agreement with a desk review appraiser pre-approved by the Board.
- (3) Respondent shall submit a copy of the consultation agreement to the Board no later than December 15, 2008. The agreement may be in letter-form, but shall attach a copy of the Consent Order to assure the desk reviewer is familiar with the terms of this Order.
- (4) By May 1, 2009, Respondent shall submit a total of six appraisal reports to his

pre-approved desk reviewer. Respondent may select which appraisal reports he will subject to desk review. The Board suggests that Respondent submit two reports shortly following the completion of education and four additional reports after making any adjustments suggested by the desk reviewer.

- (5) By May 15, 2009, Respondent shall submit to the Board, a copy of the appraisal reports as he submitted them to desk review, a copy of the desk reviewer's review reports, work files on all submitted appraisals, and a copy of any reissued appraisal report.
- (6) 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.
- (7) The reviewing appraiser shall perform a Standard Three desk review of each appraisal report submitted by Respondent. 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.
- (8) The reviewer shall prepare written comments on each appraisal's compliance with USPAP, and shall provide copies of the written comments both to the Board and to Respondent. 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.
- (9) 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 shall release Respondent from probation. The Board intends the reviews to be educational and shall accordingly give most weight to the latter reviews.
- (10) 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.
- (11) Respondent may not change desk reviewers without prior written approval by the Board.
- (12) 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 on an appraisal that was issued to the public. 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.

(13) 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.

(14) The dates set forth above provide the deadlines within which education and desk review must be completed. Respondent is free to escalate the time frames by completing the education and desk review earlier than the deadlines. However, at least four of the desk reviews must be completed after Respondent completes all required education.

C. Future Compliance. Respondent shall in the future comply with all Board laws and rules, and all applicable appraisal standards, including, but not limited to, geographical competence.

AGREED AND ACCEPTED:

The Respondent

The Iowa Real Estate Appraiser
Examining Board


M. Charles Mirocha


Michael Lara, Chair

Date

Nov. 03, 2008

Date

12/14/08