

# 12-14

FILED

IN THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

Jack Rash,

Petitioner,

vs.

Iowa Real Estate Appraiser Examining Board,

Respondent.

Case No. CVCV121105

APR -4 PM 3:00  
CLERK OF DISTRICT COURT  
BLACK HAWK COUNTY, IOWA

RULING ON PETITION FOR JUDICIAL REVIEW

On the 1st day of April, 2014, this case came before the Court for hearing on the Petitioner's Petition for Judicial Review. The Petitioner Jack Rash (hereafter the "Petitioner") did not appear, but was represented by attorney Michael Lanigan. The Respondent Iowa Real Estate Appraiser Examining Board (hereinafter "the Board") appeared telephonically by Assistant Attorney General Pamela Griebel. After hearing the arguments of counsel, and upon review of the court file and applicable law, the Court enters the following ruling.

BACKGROUND FACTS AND PROCEEDINGS

The Petitioner is a certified residential real estate appraiser in Iowa, doing business in and around Black Hawk County, Iowa. He was issued an appraisal certificate on June 29, 1999. The Board is an Iowa agency responsible for certifying and disciplining certified real estate appraisers. In March of 2010, the Board received a complaint raising questions about the Petitioner's compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). USPAP regulations are mandatory and apply to appraisers nationwide. After a USPAP review revealed multiple deficiencies with the Petitioner's appraisal methodology, accuracy and adherence to USPAP standards of practice, the Board selected two additional appraisals and submitted them for review. All appraisals revealed concerns about the Petitioner's compliance with USPAP standards. In response, the Board requested that the Petitioner take additional education and resubmit work product for review, of which two appraisals (one from Buchanan County and one from Johnson County) were selected to be reviewed by William Pruett, a certified appraiser since 1999. Pruett concluded that the Petitioner had learned nothing from his additional education, as the two appraisals revealed USPAP violations.

On August 7, 2012, the Board charged the Petitioner with (1) failing to adhere to USPAP, (2) failing to exercise reasonable diligence in the development, preparation and communication of appraisals and, (3) demonstrating negligence or incompetence in the development, preparation and communication of appraisals, in violation of Iowa Code §§ 543D.17(1)(d), (e), and (f), and 543D.18(1), and 193F IAC 7.2, 7.3(2)(c), (d), 7.3(6)(a), (b), and 7.3(7)(a).

On October 2, 2012, a contested case hearing was held. During the hearing, the Board heard from three witnesses and admitted 436 pages of exhibits. On January 4, 2013, the Board issued its Findings of Fact, Conclusions of Law, Decision and Order, sustaining the charges and entered a disciplinary order which placed the Petitioner on probation for two years and required a supervisory relationship with a pre-approved certified appraiser for at least six months, whereby all of the Petitioner's appraisal reports would be prepared under the direct supervision of a

certified residential real property appraiser. The Board specifically required that the level of supervision must comply with the requirements for the supervision of associate appraisers, as provided by 193F IAC 4.2 and 193F IAC Chapter 15.

On February 27, 2013, Petitioner filed his Petition for Judicial Review,<sup>1</sup> seeking relief under three subsections of Iowa Code Section 17A.19(10), alleging that the Board's action was (1) the product of decision making undertaken by persons who were improperly constituted as a decision-making body, were motivated by an improper purpose, or were subject to disqualification, under section 17A.19(10)(e); (2) based upon a determination of fact clearly vested by a provision of law in the discretion of the agency that is not supported by substantial evidence in the record before the court when that record is viewed as a whole, under section 17A.19(10)(f); and (3) otherwise unreasonable, arbitrary, capricious, or an abuse of discretion, under section 17A.19(10)(n).

On April 29, 2013, the Board filed its Answer. The Board alleged that the Petitioner did not file an affidavit of bias or otherwise preserve error on any claimed disqualification of, or bias by, the Board. Further, the Board denied the Petitioner's allegations under sections 17A.19(10)(f) and (n).

#### STATEMENT OF THE LAW

Iowa Code section 543D.17(1) provides, in relevant part:

The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provision of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or omissions:

- d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.
- e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
- f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

Iowa Code section 543D.18(1) provides, in relevant part:

A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter. The reliance of the public in general and of the financial business community in particular on sound, reliable real estate appraisal practices imposes on persons engaged in the practice of real estate appraising as certified real estate appraisers or as registered associate real estate appraisers certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence in thought and action, to adhere to the uniform appraisal

<sup>1</sup> The Petitioner filed a recast petition on April 24, 2013, after the district court granted the Board's motion for more specific statement.

standards adopted under this chapter, and to maintain high standards of personal conduct in all matters impacting one's fitness to practice real estate appraising. A certified real estate appraiser and a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser shall perform all appraisal assignments in an honest, disinterested and impartial manner, with objectivity and independence, and without accommodation to the personal interests or objectives of the appraiser, the client, or any third person.

In choosing a remedy for violations of sections 543D.17 and 534D.18(1), a professional licensing board has broad authority. See *Burns v. Bd. of Nursing of State of Iowa*, 528 N.W.2d 602, 604 (Iowa 1995) ("A professional licensing board's authority to impose sanctions against those it licenses is extremely broad."). In determining what discipline to impose, a professional licensing board has discretion, so long as it is authorized by law. See Iowa Code §§ 534B.29; 272C.3(2) (A licensing board may "[i]mpose a period of probation under specified conditions, whether or not in conjunction with other sanctions.").

If the factual basis for a professional licensing board's choice of remedy is supported by substantial evidence, the remaining issue before the court is whether the remedy based on the facts was unreasonable, arbitrary, capricious, or an abuse of discretion. See *McClure v. Iowa Real Estate Comm'n.*, 356 N.W.2d 594, 596 (Iowa Ct. App. 1984). Unreasonableness has been defined as "action in the face of evidence as to which there is no room for a difference of opinion among reasonable minds or not based on substantial evidence." *Burns*, 528 N.W.2d at 605 (quoting *Frank v. Iowa Dep't of Transp.*, 386 N.W.2d 86, 87 (Iowa 1986)). "An abuse of discretion is synonymous with unreasonableness." *Id.* at 604. Arbitrary and capricious are similarly defined and "mean an agency decision taken without regard to law or the facts of the case." *Office of Consumer Advocate v. Iowa State Commerce Comm'n.*, 432 N.W.2d 148, 154 (Iowa 1988).

#### ANALYSIS AND CONCLUSIONS OF LAW

At the start of the hearing, the Petitioner withdrew his first and second arguments. Therefore, the Court's analysis will concentrate solely on the Petitioner's third argument, that the Board's action was otherwise unreasonable, arbitrary, capricious, or an abuse of discretion, under section 17A.19(10)(n).

The Petitioner contends that he was unable to comply with the terms of his probation due to a term of his probation which required him to obtain a certified appraiser to act as a mentor to review his appraisals. According to the terms of his probation, the Petitioner was to acquire a mentor and the level of supervision performed by the mentor was to comply with the requirements for the supervision of associate appraisers. The Petitioner argues this requirement essentially meant that the supervising appraiser had to physically inspect the property and sign off on all appraisals as if he had done them himself. The Petitioner engaged Keith Jones to act as mentor, of whom the Board approved. The Petitioner contends that certain lenders were unable to accept appraisals signed by Jones because he was not affiliated with such lenders and therefore the Petitioner's appraisals were rejected.

Further, the Petitioner argues that he approached Ms. Griebel about staying this portion of the probation, to which she did not resist. The Board however did not. This denial, the Petitioner argued was arbitrary, capricious and without reason and effectively eliminated his

ability to comply with the original requirements of his probation, which lead to his appraisal license being revoked on January 23, 2014.

In resistance, the Respondent contends that the Board's remedy was plainly authorized and based on the Board's full and reasonable consideration of all facts presented. The Board contends their decision to place the Petitioner on probation, including supervision, was necessary in response to the persistence of appraisal deficiencies after the Petitioner completed a semester long appraising course at the University of Northern Iowa, and after Pruett's prior appraisal reviews. The Board insists it tailored a remedy that would be educational to the Petitioner, while also protecting the public because the Petitioner would be supervised by a mentor appraiser, instead of simply assessing civil penalties or suspension of his appraisal certificate.

Further, the Respondent agrees that the supervision would limit the Petitioner's independence, in mandating that his supervisor inspect all properties; however, the Board contends it reasonably concluded that public protection required that he be supervised, while also allowing an opportunity to be trained on proper USPAP compliance techniques.

The Court finds that the Board's actions in choosing a remedy were well reasoned and based on a consideration of the facts of the case. Simply because the Petitioner found it difficult to comply with the chosen remedy, does not make the remedy itself unreasonable. The probationary remedy, including the necessity of a supervisor, was based on the Petitioner's numerous prior violations of USPAP and continued violations after the Petitioner completed a semester long appraisal course. The Board, in its discretion, found that further classes would likely be useless, based on the Petitioner's history, and supervision was needed to protect the public and assist the Petitioner in adopting techniques to comply with USPAP. *See Mead v. Iowa Dep't of Soc. Servs.*, 366 N.W.2d 555, 561 (Iowa 1985) (in fashioning remedies, courts should defer to agency expertise rather than declare rights of the parties in the first instance). The Court finds the Board's remedy was based on substantial evidence, taking into consideration the need to protect the public and the Petitioner's need for supervision in his continued appraisal practice. *See Iowa Code § 543D.18(1)*.

In light of the public protection concerns posed by an appraiser who does not comply with mandated appraisal practices, the Board's imposition of stringent terms of probation designed to protect the public and educate the appraiser was not unreasonable. Therefore, the Court finds that the Board's chosen probationary remedy was not unreasonable, arbitrary, capricious, or an abuse of discretion.

ORDER

IT IS HEREBY ORDERED that the Petition for Judicial Review is DENIED and the decision of the Board is AFFIRMED.

Dated this 4 day of April, 2014.

  
\_\_\_\_\_  
GEORGE L. STIGLER  
JUDGE, FIRST JUDICIAL DISTRICT OF IOWA

Copies to: Michael Lanigan  
Pamela Griebel  
4/10/14

FILED 1/4/2013 (Date)

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

Board / Commission  
*Robert C. Lampe*  
Signature, Executive Officer

---

IN THE MATTER OF:	)	CASE NO. 12-14
	)	DIA NO. 12REA001
JACK RASH	)	
CERTIFICATE NO. CR02113	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
RESPONDENT	)	DECISION AND ORDER

---

On August 7, 2012, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file an Amended Statement of Charges against Jack Rash (Respondent). Respondent was charged with : (a) 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)(2009, 2011) and 193F IAC 7.2, 7.3(2)(c), (d), 7.3(6)(a), (b), and 7.3(7)(a).

A telephone prehearing conference was held on September 14, 2012. The hearing was held on October 31, 2012 at 10:30 a.m. Assistant Attorney General Pamela Griebel represented the state of Iowa. Respondent participated without the assistance of counsel. The following Board members presided at the hearing: James Kesterson, Appraiser, Chairperson; Gene Nelsen, Appraiser; Caryl Swaim, Appraiser; Amanda Luscombe, Appraiser; and Joan Scotter and Lee Schoenewe, Public Members. Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2011) 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)(2011), 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 the witnesses, and the State's Exhibit, with pages 1-436.

## FINDINGS OF FACT

1. The Respondent, Jack Rash, is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR02113 on June 29, 1999. His certificate is currently valid and in good standing and is scheduled to expire on June 30, 2013.
2. The Board received a complaint in March 2010 raising questions about Respondent's compliance with Uniform Standards of Professional Appraisal Practice (USPAP) in the development and reporting of an appraisal assignment.<sup>1</sup> The Board submitted the appraisal to a Standard Three USPAP review. The appraisal review revealed multiple issues with appraisal methodology, accuracy, and adherence to USPAP standards of practice. The Board picked two additional appraisals from a log and submitted them to review. All appraisals revealed concerns about Respondent's compliance with USPAP standards.
3. Rather than proceed to a formal disciplinary case, the Board initially requested that Respondent take additional education and resubmit work product for review. Respondent eventually completed the education and submitted a log. The Board selected two appraisals from the log.
4. William R. Pruett has been a certified appraiser since 1999 and is employed by Rally Appraisal. He has served as a peer reviewer for the Board for several years and was asked to serve as a peer reviewer for Respondent. Mr. Pruett conducted the review of the two appraisals from the Respondent's log. After reviewing the appraisals conducted prior to his additional education, and comparing them to the two recent appraisals, Mr. Pruett concluded that the Respondent had learned nothing from his additional education as both revealed USPAP violations.

Mr. Pruett determined that the Respondent's appraisal of the Buchanan County property had the following deficiencies:

---

<sup>1</sup> USPAP regulations apply to appraisers nationwide. Standard 1 of USPAP establishes minimum standards for the development of an appraisal and Standard 2 establishes minimum standards for the reporting of an appraisal. (State Exhibit 7; Testimony of Terri Selberg)

-The Respondent sites "Public Records" as his sources for confirmation of the subject's listing history. Is there an MLS available for this area? Unless defined, "public records" is not a valid source for confirmation of listing history. It is not apparent the Respondent has completed due diligence in researching the listing history on the subject.

-The dwelling is a small dwelling on a slab foundation with few similar sales available. No discussion is offered regarding the presence or lack of functional obsolescence or how this construction style is perceived by the market.

-The Respondent states, "There are no sales data available for lots sold in this neighborhood." Since the Respondent considers all Buchanan County as the neighborhood, it is difficult to believe that there have been no sales in the past 12 months in the entire county. The reviewer made a quick search of the Assessor's web site and found 34 sales of vacant lots (8 of which are acre sites) in the 12 months prior to the effective date of the appraisal. The cost approach renders a cost substantially higher than the sales approach. This would lead the reader to question the accuracy of the data or the possible omission of obsolescence.

-The Respondent offers no explanation for adjustments made. The range of adjusted sales is too broad to support paired sales analysis. The adjustments for site differences appear very low as do the adjustments for central air units. The cost to install central air would be well over the \$450 adjustment and it is unclear if this adjustment reflects a true market reaction.

-The income approach is not completed reasoned by the Respondent, "Income approach was not considered for this report." This is not adequate reasoning per USPAP and similar to reasoning presented prior to the Respondent's education.

-No reconciliation of the sales approach is offered. The three approaches to value are also not reconciled. There is a wide discrepancy between the cost and sales approaches that is not reconciled. There is not enough information provided in the report to indicate the Respondent performed due diligence regarding the approaches to value.

-The reviewer concluded that the report was very similar to reports presented prior to education and suggests no improvement has been made. The approach to market data is very lax with no apparent effort to gather the information necessary to provide a credible report. There is little effort to supply the reader with proper

reasoning regarding adjustments and little effort to discern vacant land values in the cost approach.

-An example of the lax approach is the fact that prior to the Respondent's additional education he had in his appraisals a statement indicating that, "At this time there is not an accurate tracking method for REO properties, we are in the process of adding this information to our data bases and will soon have a better idea of any effect they are having on market values." This statement was still in the post-education appraisals. The reviewer deems this to be "gross negligence as the appraiser is aware of the need to have access to sales and listing data and yet has not attained this necessary information after two years of submitting inadequate appraisal report."

Mr. Pruett determined that the Respondent's appraisal of the Iowa City property had the following deficiencies:

-The Respondent states the source for listings or purchase of the subject is "Pub. Recs." Public records do not record listing data and is unreliable as a resource for this purpose. It is not apparent the Respondent has access to the local MLS which would be necessary to complete this assignment.

-The Respondent states, "There are no sales data available for lots sold in this neighborhood." Since the Respondent considers all of Johnson County as the neighborhood, it is difficult to believe there have been no sales in the past 12 months in the entire county. The Cost estimates do not appear to be accurate as the cost approach renders a value over \$60,000 above the sales approach. Either the Respondent has stated incorrect cost data or has omitted functional or external obsolescence. In any event, the cost approach does not assist the Respondent in explaining his opinion of value for the subject.

-Income approach is not completed reasoned by the Respondent, "Income approach was not considered for this report." This is not adequate reasoning per USPAP and similar to reasoning presented prior to education.

-No reconciliation of the sales approach is offered. The three approaches to value are also not reconciled. There is not enough information provided in the report to indicate the Respondent performed due diligence regarding the approaches to value.

-This report suggests the Respondent is not competent to appraise in this area due to limited availability to necessary data and limited knowledge of elements of



comparison which impact the marketability in the subject's area. This report is very similar to reports presented prior to education and suggests no improvement has been made. This report is especially troubling due to the lack of neighborhood knowledge, choice of comparable sales and inadequate reporting of the market factors which affect the marketability of properties in the area.

-The Respondent also includes in this appraisal the statement indicating that, "At this time there is not an accurate tracking method for REO properties, we are in the process of adding this information to our data bases and will soon have a better idea of any effect they are having on market values." This is an apparent admission to incompetency in this market not having access to data supplied by the local MLS and the local Assessor.

5. Following the investigation the Board charged the Respondent with (a) 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 section 543D.17(1)(d), (e) and (f), and 543D.18(1)(2009, 2011), and 193F IAC 7.2, 7.3(2)(c),(d), 7.3(6)(a) and 7.3(7)(a).

6. The Respondent testified in his defense. He stated that he is not afraid to study or to learn. He repeatedly told the Board that he believes that the USPAP requirements are a "guideline" and are not mandatory. He has three children in college and hopes to continue appraising.

### CONCLUSIONS OF LAW

The Board wants the Respondent to be completely clear on one aspect of this case. USPAP is NOT a guideline for appraisers. USPAP is mandatory.

Iowa Code sections 543D.17(1)(d), (e) and (f) (2011) provide, in relevant part:

#### **543D.17 Disciplinary proceedings.**

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend

the rights of a holder or otherwise discipline a holder for violation of provisions of this chapter, or chapter 272C, or of a rule adopted under this chapter or commission of any of the following acts or omissions:

...

*d.* Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

*e.* Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

*f.* Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

Iowa Code section 543D.18(1)(2011) provides, in relevant part:

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter. The reliance of the public in general and of the financial business community in particular on sound, reliable real estate appraisal practices imposes on persons engaged in the practice of real estate appraising as certified real estate appraisers or as registered associate real estate appraisers certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence in thought and action, to adhere to the uniform appraisal standards adopted under this chapter, and to maintain high standards of personal conduct in all matters impacting one's fitness to practice real estate appraising...

The legislature has vested the Board with authority to adopt rules establishing uniform appraisal standards and appraiser certification requirements and other rules necessary to enforce Iowa Code chapter 543D.18 and its responsibilities under chapter 272C. Iowa Code section 543D.5(1)(2011).

In accordance with this authority, the Board has adopted, by rule, the Uniform Standards of Professional Appraisal Practice (USPAP). 193F IAC 7.2. See State Exhibit 7. A number of USPAP Standards Rules (2008-2009 Edition) are specifically relevant to this contested case, including but not limited to:

In developing a real property appraisal:

An appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal, must not commit a substantial error of omission or commission that significantly affects the appraisal, and must not render services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of the appraisal, in the aggregate affects the credibility of those results. SR 1-1(a)-(c).

...

An appraiser must identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including its location and physical, legal, and economic attributes. SR 1-2(e)(i).

When necessary for credible assignment results in developing a market value opinion, an appraiser must identify and analyze the effect on use and value of...economic supply and demand, the physical adaptability of the real estate, and market area trends. SR 1-3(a).

When a cost approach is necessary for credible assignment results, an appraiser must develop an opinion of site value by an appropriate appraisal method or technique, analyze such comparable cost data as are available to estimate the cost new of the improvements (if any), and analyze such comparable data as are available to estimate the difference between the cost new and the present worth of improvements (accrued depreciation). SR 1-4(b)(i)-(iii).

Each written or oral real property appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading, contain sufficient information to enable the intended users of the appraisal to understand the report properly, and clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions in the use of the assignment. SR 2-1(a)-(c).

The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

Summarize the information sufficiently to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment. SR 2-2(b)(iii)

Summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained. SR 2-2 (b)(viii).

Clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and state that their use might have affected the assignment results. SR 2-2(b)(x).

193F IAC 7.3 provides, in relevant part:

**193F-7.3(17A, 272C,543D) Grounds for discipline.** The board may initiate disciplinary action against a registered associate appraiser or a certified real property appraiser based on any one or more of the following grounds:

**7.3(2). Professional incompetence.** Professional incompetence includes, but is not limited to:

...

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standards of acceptable and prevailing practice of registered associated appraisers or certified real property appraisers in this state.

...

**7.3(6) Negligence by the registrant or certificate holder in the practice of the profession.** Negligence by the registrant or certificate holder in the practice of the profession includes:

*a.* Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

**7.3(7) Professional misconduct.**

*a.* A violation of any of the standards applicable to the development or communication of real estate appraisals as provided in 193F-7.2(543D).

The preponderance of the evidence established that the Respondent violated Iowa Code sections 543D.17(1)(d), (e), and (f), 543D.18(1) and 193F IAC 7.2, 7.3(2)"c" and "d," 7.3(6)"a" and 7.3(7) by repeatedly failing to adhere to appraisal standards in the

development, preparation and communication of appraisals and by failing to exercise reasonable diligence and by demonstrating negligence or incompetence in the development, preparation and communication of appraisals.

The desk reviews and testimony of Bill Pruett persuasively established that Respondent does not understand and/or utilize basic methodology and continues to fail to comply with USPAP standards in the development and communication of his appraisal reports. The appraisal reports reviewed consistently fail to provide adequate and detailed neighborhood descriptions; fail to explain or justify the adjustments, which do not appear to be market based; and fail to include sufficient information to explain how Respondent arrived at his value opinion.

Respondent recently completed a semester long USPAP course at the University of Northern Iowa but still does not appear to understand how to apply the basic principles taught in this course in his appraisal practice. The Board doubts that Respondent would benefit from additional class room education at this time. However, the Board is convinced that Respondent requires supervision and mentoring equivalent to that provided to an associate appraiser, in order to learn how to properly apply USPAP requirements in the development and communication of appraisals.

### DECISION AND ORDER

**IT IS THEREFORE ORDERED** that Iowa Real Estate Appraiser Certificate No. CR02113, issued to Jack Rash, is hereby placed on **PROBATION FOR TWO YEARS**, effective immediately upon service of this Decision and Order, and subject to the following terms and conditions:

1. For as long as Respondent is on probationary status, he shall submit a quarterly log of all appraisals he has completed and shall provide the written log to the Board by the 10<sup>th</sup> day of the month for the preceding quarter. The certified appraiser who is mentoring the Respondent shall also provide a list of appraisals the mentor has reviewed.
2. For at least the first six (6) months of probation, all of Respondent's appraisal reports shall be prepared under the direct supervision of a certified residential real property appraiser, pre-approved by the Board. Respondent will be responsible for all costs associated with this supervision. Although Respondent will retain his status as a certified residential appraiser, the level of supervision provided to him must comply with the requirements for the

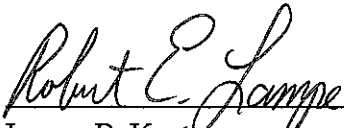
supervision of associate appraisers, as provided by 193F IAC 4.2 and 193F IAC chapter 15.

3. After six months the Board staff will begin the process of selecting a minimum of two of Respondent's appraisal reports to be submitted to desk reviewer chosen by the Board. Respondent will be responsible for all costs associated with these reviews. The desk review process will continue until the Board has received at least three (3) residential appraisal reports with associated review reports that do not have significant USPAP violations.

4. The Board may file additional charges if one or more of the appraisal reports submitted for desk review demonstrate probable cause to take such action on an appraisal that was issued to the public.

**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 day of *January 4*, 2013.

  
*For the Chair*  
James P. Kesterson, Appraiser  
Chairperson  
Iowa Real Estate Appraiser Examining Board

cc: Jack Rash  
145 Windsor Ridge Drive  
Raymond IA 50667 (Restricted Certified)

Pamela Griebel  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.

DATE OF ISSUANCE *January 4, 2013*

**FILED** August 27 2013 (Date)  
Iowa Real Estate Appraiser Examining Board  
Board / Commission  
Signature, Executive Officer

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

---

<b>IN THE MATTER OF:</b>	)	<b>CASE NO. 12-14</b>
	)	<b>DIA NO. 12REA001</b>
<b>JACK RASH</b>	)	
<b>CERTIFICATE NO. CR02113</b>	)	<b>RULING ON APPLICATION</b>
	)	<b>FOR PARTIAL STAY</b>
<b>RESPONDENT</b>	)	

---

On August 8, 2013, the Respondent filed an Application for Partial Stay with the Iowa Real Estate Appraiser Examining Board (Board). Later that same day the State filed a Response to Respondent's Application for Partial Stay.

The Board met in closed session on August 12, 2013 to deliberate the Application. The members of the Board present were Lee Schoenewe, Amanda Luscombe, Gene Nelsen, Fred Greder, Greg Harms, Joan Scotter, and Caryl Swaim. Jeff Evans, Executive Officer with the Iowa Real Estate Commission, assisted the Board with the deliberations. For the forgoing reasons the Board hereby DENIES the Respondent's Application for a Partial Stay.

The Respondent's Motion indicates that he is attempting to comply with the conditions of probation imposed upon him in the Findings of Fact, Conclusions of Law, Decision and Order issued on January 4, 2013. The Motion provides that:

3. In attempting to comply with such quoted provision (requiring a supervisor), it has come to the attention of the Respondent that certain lenders/vendors are not able to accept an appraisal signed by Mr. Jones because he is not affiliated with or otherwise signed up with such particular lender/vendor. The result is that Respondent's appraisals are rejected outright and not allowed to proceed through the system. For example, one such vendor denying appraisals signed by Mr. Jones is Servicelink Appraisal Management Company, which Respondent believes is based out of Pennsylvania.

4. In order for Respondent to continue preparing appraisals, and to allow Mr. Jones to continue to supervise such appraisals, Respondent respectfully requests that the language quoted in paragraph 2

(regarding supervision) be stayed. This would allow Respondent to continue with his appraisals and it would allow Mr. Jones to supervise such appraisals. Respondent requests Mr. Jones thereby be allowed to communicate directly to the Board his concurrence with each appraisal and any revisions he requests rather than signing each report as supervisor.

The State's Response provided:

1. The State suggests that an order granting the relief require Mr. Jones to keep a copy of each appraisal he approves and to send a copy of the first page with his verification of approval. That process will help avoid dispute in the future about what was approved. The Board can request a full copy from Mr. Jones if an issue arises.
2. The State further suggests that Mr. Jones state in the verification that he was prepared to sign the appraisal in the same manner applicable to any supervisor of an associate.


After deliberating the Application the Board has determined that the Application for Partial Stay shall be DENIED. The Board believes that any supervisor that the Respondent selects should be competent to supervise the Respondent in all geographical areas that the Respondent practices in and be competent in all areas of expertise. If the Respondent wants to do AMC reports, he should select a supervisor who can review such reports.

The Respondent is free to choose another supervisor that will be subject to board approval.

#### DECISION AND ORDER

**IT IS THEREFORE ORDERED** that the Application for Partial Stay filed by the Respondent is hereby DENIED.

Dated this 27<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Iowa Real Estate Appraiser Examining Board



DIA No. 12REA001

Page 3

cc: Jack Rash  
145 Windsor Ridge Drive  
Raymond IA 50667 (Restricted Certified)

Michael J. Lanigan, Attorney  
318 East Fourth Street  
Waterloo IA 50703

Pamela Griebel  
Assistant Attorney General  
Hoover State Office Building  
Des Moines, Iowa 50319

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.