

FILED May 3, 2016 (Date)

~~Real Estate Appraiser
Board / Commission~~

Signature, Executive Officer

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

IN THE MATTER OF:

James J. Ahern,
CR02526

RESPONDENT

Case No. 15-28

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 (2015).

2. Respondent is a certified residential real estate appraiser in Iowa. He was issued Certificate No. CR02526 on March 26, 2013.

3. Certificate No. CR02526 is currently valid and in good standing, and is scheduled to expire on June 30, 2016.

4. The Board received a complaint in October 2015 raising questions about Respondent's compliance with USPAP in the development and reporting of an appraisal assignment. 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.

5. Following investigation, the Board charges Respondent with:

- (a) Failure to adhere to USPAP in violation of Iowa Code sections 543D.17(1)(d) and .18(1) and Iowa Administrative Code rules 193F—7.2 and .3(2);
- (b) Failure to exercise reasonable diligence in the development and communication of multiple appraisals in violation of Iowa Code section 543D.17(e) and Iowa Administrative Code rule 193F—7.3(6)(a);
- (c) Demonstrating negligence or incompetence in the development, preparation and communication of multiple appraisals in violation of Iowa Code section 543D.17(f) and Iowa Administrative Code rules 193F—7.3(2) and (6); and
- (d) Engaging in 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 .10(3).

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. Respondent denies the allegations, but agrees to comply with the Consent Order to resolve any disputed matters.

B. Settlement Agreement and Consent Order

8. Respondent has a right to a hearing on the charges, but waives Respondent's right to hearing and all attendant rights, including the right to seek judicial review, by freely and voluntarily entering into this Order.

9. This Order constitutes discipline against Respondent, and is the final agency order in the contested case, pursuant to Iowa Code section 17A.10 and Iowa Administrative Code rule 193—7.4.

10. 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.

11. 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.

12. This combined Statement of Charges and Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

13. 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).

14. 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 that Iowa Real Estate Appraiser Certificate No. CR02526 issued to Respondent is hereby placed on **INDEFINITE PROBATION** for at least six months, effective immediately upon entry of this Order, and subject to the following terms and conditions:

A. Supervision and Desk Review

1. For as long as Respondent is on probationary status, he shall submit to the Board a monthly, written log of all appraisals he has completed for the preceding month. Respondent shall provide this written log to the Board by the 10th of each month for the preceding month.

2. During his probation, all of Respondent's appraisal reports shall undergo Standard Three USPAP review by a supervisor to ensure USPAP compliance. Respondent shall choose a supervisor who is a certified residential real property appraiser. Respondent

shall provide said supervisor with a copy of this Order. Respondent's chosen supervisor shall be required to confirm acceptance of the terms of this Order with the Board prior to commencing the supervisory arrangement. Respondent's chosen supervisor shall also be subject to the Board's approval. Respondent shall not perform any appraisal assignment(s) until Respondent has secured the above-noted supervisor, said supervisor has confirmed acceptance of the terms of this Order with the Board, and the Board has approved said supervisor. Respondent will be responsible for all costs associated with this supervision. Although Respondent will retain his status as a certified residential appraiser, Respondent may not release any appraisal report to any client until his supervisor has reviewed the report and signed off on it as being USPAP compliant in all respects.

3. In the event Respondent's supervisor identifies any USPAP violation(s) in a given report, Respondent shall be required to remediate the identified deficiencies and resubmit a revised report to his supervisor for further review and sign off. This resubmittal process shall continue until Respondent's supervisor has signed off on the report as being USPAP compliant in all respects. Respondent may not release any appraisal report to any client until his supervisor has reviewed the report and signed off on it as being USPAP compliant in all respects.

4. For as long as Respondent is on probationary status, Respondent's supervisor shall submit any and all Standard Three USPAP reviews he or she prepares to the Board's Executive Officer by email, to: RealEstateAppraiserBoard@iowa.gov. Such email transmission shall occur before or at the same time Respondent's supervisor provides respondent with any such review(s). Such email transmission shall include the corresponding appraisal report upon which the review was based. Such email transmission need not include Respondent's underlying work file; however, Respondent shall provide the Board with said work file upon request by the Board's Executive Officer. Respondent will be responsible for all costs associated with such email transmissions, and all costs associated with transmitting any underlying work files to the Board.

5. While on probation, Respondent shall prepare a minimum of three (3) appraisal reports, which shall be reviewed by his pre-approved supervisor. If Respondent has not completed three (3) appraisal reports under supervision at the end of six months, his probation will continue until he has completed three (3) such appraisal reports.

6. The Board may request periodic progress reports from Respondent's supervisor.

7. At the end of Respondent's six-month probationary period (subject to paragraph 5), Board staff will select a minimum of three (3) of Respondent's appraisal reports to be submitted to a desk reviewer. The desk reviewer will be chosen by the Board. Respondent will be responsible for all costs associated with these desk reviews. Respondent will provide the Board, within ten (10) days of request, five copies of the selected appraisals and associated work files, and the sum of \$300 per review to be paid by the Board to the retained desk reviewer.

8. The desk reviewer shall complete a comprehensive Standard Three review for

each appraisal. The review shall be for facial compliance with USPAP. The desk 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 desk reviewer copies of all documents verifying the accuracy of factual representations in each appraisal. The desk reviewer may request additional information, if needed, such as documentation of paired sales analysis, documentation of support for site values, and the like. The costs associated with desk review are the responsibility of the Respondent.

9. The desk reviewer shall prepare written comments on each appraisal's compliance with USPAP, and shall provide copies of the written comments to the Board.

10. At the next Board meeting following the Board's receipt of the three (3) or more review appraisals, the Board may enter an order indicating Respondent's full compliance with this Order, or, if the desk-review comments and appraisals continue to reveal significant USPAP violations, the Board may defer final ruling and may order additional desk reviews, education, or other rehabilitative or disciplinary measures. No such order will be issued without affording Respondent reasonable notice and an opportunity to request a hearing.

11. Respondent shall not supervise an associate appraiser or otherwise co-sign another appraiser's work as a supervisor until he has complied with all terms of this Order.

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. 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.

Case No. 15-28

AGREED AND ACCEPTED:

The Respondent

The Iowa Real Estate Appraiser Examining Board



James J. Ahern
03/29/2016

Date



Gene Nelsen, Chair
Amanda Lisesunke
May 3, 2016

Date