

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

IN THE MATTER OF:)	CASE NO. 97-20
)	DIA NO. 98DOCRE-2
RICHARD C. NIDAY)	
CERTIFICATE NO. [REDACTED])	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
RESPONDENT)	DECISION AND ORDER

On October 24, 1997, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Complaint against Richard C. Niday (Respondent). The Complaint alleged that the Respondent prepared and communicated four appraisals for real property which contained deficiencies which violated the Uniform Standards of Professional Appraisal Practice (USPAP). In addition, the Complaint alleged that the Respondent accepted a check of \$400.00 for appraisal services but did not prepare the appraisal or refund the \$400.00. The Respondent was charged in four separate counts. A Notice of Hearing scheduled a prehearing conference for February 20, 1997 and a hearing for February 27, 1997. The Respondent failed to appear for the prehearing conference or for the hearing.

The hearing was held on February 27, 1997 at 9:20 a.m. The Respondent did not appear, nor was he represented by counsel. The state of Iowa was represented by Pamela Griebel, Assistant Attorney General. The following Board members were present for the hearing: David R. Hicks, Appraiser, Chairperson; Terry D. Culver, Appraiser; Lil M. Perry, Appraiser; L. Craig Harris, Appraiser; and Theresa H. Lewis and Gary J. Johnson, Public Members. Nancy M. Larson, Appraiser, was recused. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. A certified court reporter recorded the proceedings.

The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(1997) and 193F IAC 8.12(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)(1997) to deliberate its decision. The Board instructed the administrative law judge to prepare its Findings of Fact, Conclusions of Law, Decision and Order, in conformance with its deliberations.

THE RECORD

The record includes the Complaint, Notice of Hearing, State's Prehearing Conference Report, the testimony of the witnesses, and the following exhibits:

State Exhibit A: Curriculum Vitae-Alan Hummel

State Exhibit B: Appraisal-4/20/97, 3435 335th St., West Des Moines

State Exhibit C: Appraisal, 6/25/97-3411 Sheridan Ave.,
Des Moines

State Exhibit D: Appraisal, 6/25/97, 2449 E. Grand Ave.,
Des Moines

State Exhibit E: Appraisal, 5/10/97, 2020-22 Nash Drive,
Des Moines

State Exhibit F: Appraisal Review

State Exhibit G: 1997 USPAP-Standards One and Two

State Exhibit H: Complaint, October 1997

State Exhibit I: Sheriff's Return of Service, 1/14/98

State Exhibit J: 1997 USPAP-Ethics Provision

FINDINGS OF FACT

1. On January 22, 1992, the Respondent was issued Iowa Real Estate Appraiser Certificate (Residential), no. 478580684, by the Board. Certificate No. 478580684 is currently in good standing. (Board licensing records)
2. The Board received a copy of a residential appraisal prepared by the Respondent on April 7, 1997. Portions of the appraisal were highlighted. The appraisal was sent anonymously through the mail. It is not unusual for the Board to receive complaints in this manner. Attached to the appraisal were five pages of documents sent by the complainant. (Testimony of Alan Hummel; State Exhibit B)
3. After receiving this complaint, the Board contacted the Respondent and asked him to submit a log of all appraisals he had prepared in the previous three months. The Respondent complied, but the appraisal contained in State Exhibit B was not listed on the Respondent's log. The Respondent had not been informed that the Board had a copy of this appraisal. (Testimony of Alan Hummel)
4. Based on the log submitted by the Respondent, it appeared that he was completing 12-15 residential appraisals each week, some of which were for properties outside of Des Moines. This number of appraisals appeared considerably above the normal work product of an appraiser. Three additional appraisals were chosen from the Respondent's log, and he was requested to send these appraisals to the Board for review by the Board's consultant. (Testimony of Alan Hummel)

5. Alan Hummel, a certified general real property appraiser in the states of Iowa and Kansas, has been retained by the Board as a consultant and investigator since 1993. Mr. Hummel reviewed four residential appraisals that were prepared and communicated by the Respondent. Mr. Hummel concluded that all four appraisals contained deficiencies and failed to meet the requirements of the Uniform Standards of Professional Appraisal Practice. (Testimony of Alan Hummel; State Exhibits F, G)

6. The Uniform Standards of Professional Appraisal Practice (USPAP) are promulgated by the Appraisal Standards Board of The Appraisal Foundation. By federal legislation, the Appraisal Standards Board is authorized to write, promulgate, and interpret these standards. The state of Iowa has chosen to adopt these standards of professional practice. The 1997 Edition of USPAP was applicable to the appraisals which are the subject of this hearing. (Testimony of Alan Hummel; State Exhibits G, J; 193F IAC 7.1(5))

7. Standard 1 of USPAP outlines the analysis that an appraiser should go through in developing their methodology, in order to produce an appraisal that is not misleading. Standard 2 of USPAP gives the minimum guidelines to the appraiser for reporting the analysis. (Testimony of Alan Hummel; State Exhibit G)

8. Mr. Hummel identified violations of the minimum USPAP standards in each of the four residential appraisals prepared and communicated by the Respondent. He concluded that the Respondent failed to exercise reasonable diligence and was negligent or incompetent in the preparation and communication of the four appraisals. (Testimony of Alan Hummel; State Exhibits B-G)

9. Under USPAP Standard 2, the appraiser has three options for reporting: the self contained report, summary report, and the restricted report. The essential difference between these types of reports is the level of detail of presentation and a use restriction that limits the reliance on the report to the client and considers anyone else using the report an unintended user. The report must prominently state which reporting option is being used.

a) The self contained report does not require the reader to go outside the document to understand the appraiser's analysis and how conclusions were reached.

b) The summary report is a summarization of the data.

c) The restricted report is intended for use by the client only.

(Testimony of Alan Hummel; State Exhibit G)

10. The first residential appraisal, which was prepared and communicated by the Respondent on April 20, 1997, was not labelled as to which reporting option was being used. Mr. Hummel felt that it most closely resembled a summary report. Mr. Hummel identified the following specific deficiencies in the first appraisal:

- a) The appraisal report fails to indicate what reporting option is being used. USPAP 2-2.
- b) The appraisal report fails to consider and identify the intended use and users of the appraisal. USPAP 1-2(a), 2-2(b)(iii)
- c) The Respondent failed to collect, verify, analyze and reconcile cost of new improvements. In the cost approach to value, the Respondent attributed 25% of the cost (\$50,000) to "extras" without providing any explanation or support for what this represented. USPAP 1-4(b)(i), 2-2(b)(viii)
- d) The Respondent failed to properly collect, verify, analyze and reconcile comparable sales. For comparable sale No. 2, the Respondent states that the property has no deck. However, other public records indicate that the property has substantial decking, extending over three sides of the property and covering 2600 square feet. USPAP 1-4(b)(iii), 2-2(b)(viii).
- e) The Respondent failed to explain or support his exclusion of the income approach to value. USPAP 2-2(b)(x).

(Testimony of Alan Hummel; State Exhibits B, F, G)

11. The second residential appraisal, which was prepared and communicated by the Respondent on June 25, 1997, was described as a complete self-contained report. However, Mr. Hummel testified that the report does not sufficiently describe the appraiser's analysis to be labelled a complete self-contained report. Mr. Hummel identified the following deficiencies in this appraisal:

- a) The Respondent fails to consider and identify the intended users of the appraisal. USPAP 1-2(a), 2-2(a)(viii).
- b) The Respondent fails to properly collect, verify, analyze and reconcile comparable sales. The Respondent identifies comparable sale no. 3 as frame construction, when in fact it is brick. The Respondent reports an incorrect number of units for comparable sales nos. 2 and 3. Two of the three comparable sales were used in a previous report, which showed the correct information. USPAP 1-4(b)(iii), 2-2(a)(viii).

c) The Respondent fails to properly collect, verify, analyze and reconcile comparable rents. The actual bedroom count of the comparable rents is confusing, as they are listed differently throughout the grid. However, the subject property appears to have two 1 bedroom units, while the comparable rents used by the Respondent have 2 bedroom units. In addition, the Respondent's comments reconciling the estimated rent are not representative of the facts presented. The comparable neither supports the subject rents, nor do they indicate that the subject is at the higher end of the rental range. USPAP 1-4(b)(iv), 2-2(a)(viii).

d) The Respondent failed to collect, verify, analyze and reconcile gross rent multiplier (GRM). The GRM is a ratio of sales price to rent. The GRM of the subject property was reconciled to a value substantially higher than what was shown by the comparable and no explanation was provided. USPAP 1-4(b)(vi), 2-2(a)(viii)

(Testimony of Alan Hummel; State Exhibits C, F, G)

12. The third residential appraisal, which was also prepared and communicated by the Respondent on June 25, 1997, contained the following deficiencies:

a) The appraisal report fails to indicate what reporting option is being used. USPAP 2-2.

b) The appraisal report fails to consider and identify the intended use and users of the appraisal. USPAP 1-2(a), 2-2(b)(iii)

c) The Respondent failed to explain or support his exclusion of the income approach to value. USPAP 2-2(b)(x).

d) The Respondent failed to include a signed certification in the report. USPAP 2-2(b)(xii)

(Testimony of Alan Hummel; State Exhibits D, F, G)

13. The fourth residential appraisal, which was prepared and communicated by the Respondent on May 10, 1997, contained the following deficiencies:

a) The Respondent fails to consider and identify the intended users of the appraisal. USPAP 1-2(a), 2-2(a)(viii).

b) The Respondent fails to properly collect, verify, analyze and reconcile comparable sales. The square footage adjustments are not supported, especially when compared to sale 3. The Respondent provides no support or explanation as to how he

arrived at the garage adjustments. USPAP 1-4(b)(iii), 2-2(a)(viii).

c) The Respondent fails to properly collect, verify, analyze and reconcile comparable rents. The Respondent provides no explanation as to why rents would be different for the two units. USPAP 1-4(b)(iv), 2-2(a)(viii).

d) The Respondent failed to collect, verify analyze and reconcile gross rent multiplier (GRM). The GRM of the subject property was reconciled to a value substantially higher than what was shown by the comparable and no explanation was provided. USPAP 1-4(b)(vi), 2-2(a)(viii)

(Testimony of Alan Hummel; State Exhibits E, F, G)

14. Mr. Hummel expressed concern for both the manner in which these four appraisals were developed and the manner in which they were reported. The deficiencies in the appraisals demonstrate either a substantial lack of knowledge of the USPAP requirements or in some cases, advocacy, which would be a serious ethical violation. (Testimony of Alan Hummel)

15. On October 10, 1997, the Board received another complaint against the Respondent. On or about May 15, 1997, the Respondent accepted a check for \$400.00 for appraisal services, after completing an on-site inspection of a residential duplex property. The check was cashed or deposited by the Respondent. The Respondent told the owner that he would prepare an appraisal report. When the owner had not received the report after sixty days, he called the Respondent, who assured him that the report would be completed. Subsequently, the owner sent two letters, one by certified mail, to the Respondent. The Respondent has not replied, has not prepared an appraisal report, and has not refunded the \$400.00 fee. (Testimony of Daniel Render; State Exhibit H)

16. The Board's consultant attempted to contact the Respondent by phone after receiving this complaint. Messages were left on the Respondent's answering machine and with his son, but the Respondent did not return either call. (Testimony of Alan Hummel)

17. The Respondent was personally served with the complaint and notice of hearing on January 14, 1998. He failed to appear for the hearing. (State Exhibit I)

CONCLUSIONS OF LAW

1. 193F IAC 8.9 provides that the Respondent shall be served with the notice of hearing and statement of charges by certified mail, at least 30 days before the hearing. 193F IAC 8.12(5) provides that if a respondent, upon whom a proper notice of hearing has been

served, fails to appear in person at the hearing, the board and presiding officer may proceed to conduct the hearing and the respondent shall be bound by the results of such hearing to the same extent as if he had been present.

The Respondent was properly served with the notice of hearing and statement of charges by personal service, more than 30 days prior to the hearing. He failed to appear and is bound by the this decision and order of the board.

COUNT I

2. Iowa Code sections 543D.17(1)(d) and 543D.18(1) 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 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 offenses:

...

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

543D.18 Standards of Practice

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

3. 193F IAC 7.1(5) provides, in relevant part:

193F-7.1(543D) Grounds for disciplinary actions against certificates, licenses, and associates. The grounds for revocation and suspension of certificates, licenses and associate registrations and other disciplinary action against appraisers are set out in Iowa Code section 543D.17 in both specific and general terms. The general terms of that provision of the Code include the following particular grounds for such disciplinary action:

...

7.1(5) Failure to comply with the USPAP applicable at the time of the development and communication of the real estate appraisal.

4. The 1997 USPAP contained the following relevant standards:

Standards Rule 1-2

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines:

(a) ..consider the purpose and intended use of the appraisal...

Standards Rule 1-4

In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines, when applicable:

...
(b) collect, verify, analyze, and reconcile:

(i) such comparable cost data as are available to estimate the cost new of the improvements (if any):

...
(iii) such comparable sales data, adequately identified and described, as are available to indicate a value conclusion.

(iv) such comparable rental data as are available to estimate the market rental of the property being appraised.

...
(vi) such comparable data as are available to estimate rates of capitalization and/or rates of discount.

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report.

(a) The Self-Contained Appraisal Report must:

...
(iii) state the purpose and intended use of the appraisal;

...
(viii) describe the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;

- ...
(b) The Summary Appraisal Report must:
 - ...
(iii) state the purpose and intended use of the appraisal;
 - ...
(viii) summarize the information considered, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;
 - ...
(x) explain and support the exclusion of any of the usual valuation approaches;
 - ...
(xii) state all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

5. The Board agrees with the analysis and conclusions of the expert witness who reviewed the four appraisals. The preponderance of the evidence established that the Respondent violated Iowa Code sections 543D.17(1)(d) and 543D.18(1) (1997) and 193F IAC 7.1(5) when he prepared and communicated four real estate appraisals which contained numerous violations of the above-cited USPAP standards. Specifically, the appraisals violated the Standards Rule 1-2(a); 1-4(b)(i), (iii), (iv), and (vi); 2-2; 2-2(a)(iii) and (viii); and 2-2(b)(iii), (viii), (x) and (xii).

COUNT II

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

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

7. The preponderance of the evidence established that the Respondent violated Iowa Code section 543D.17(1)(e) by failing to exercise reasonable diligence in the preparation and communication of four real estate appraisals. The Respondent has provided no explanation for the numerous deficiencies in these appraisal reports.

COUNT III

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

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

9. The preponderance of the evidence established that the Respondent either negligently or incompetently developed four real estate appraisals, negligently or incompetently prepared the appraisal reports and negligently or incompetently communicated the appraisals, in violation of Iowa Code section 543D.17(1)(f). The four appraisal reports reviewed by the Board's consultant demonstrate a substantial lack of knowledge concerning the USPAP standards or, if the Respondent has such knowledge, a failure to apply that knowledge in the preparation of these reports.

COUNT IV

10. Iowa Code section 272C.10(3)(1997) provides, in relevant part:

272C.10 Rules for revocation or suspension of license.

A licensing board established after January 1, 1978 and pursuant to the provisions of this chapter shall by rule include provisions for the revocation or suspension of a license which shall include but is not limited to the following:

....
3....engaging in unethical conduct.

11. The ethics provision of the 1997 USPAP Standards state that the fiduciary responsibilities inherent in professional appraisal practice require the appraiser to observe the highest standards of professional ethics. The ethics provision further provides that the appraiser must perform ethically and competently and not engage in conduct that is unlawful, unethical, or improper. In addition, the appraiser is required to avoid any action that could be considered misleading or fraudulent.

12. The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.10(3) and the ethics provision of the USPAP standards, which were adopted by the Board pursuant to 193F IAC 7.1(5). The Respondent accepted a \$400.00 fee to complete an appraisal but never completed the work and never refunded the fee, although he was asked to do so. Moreover, the Respondent has not responded to communications from his client or from the Board. This is an extremely serious violation of the ethical provisions of USPAP. The Respondent has violated his fiduciary duties and has acted in a misleading and fraudulent manner.

DECISION AND ORDER

The extremely serious nature of these professional and ethical violations require the Board to take immediate action to protect the public.

IT IS THEREFORE ORDERED, that the Iowa Real Estate Certificate issued to Richard C. Niday, Certificate No. [REDACTED], shall be REVOKED, effective immediately upon service of this decision and order.

IT IS FURTHER ORDERED, that the Respondent shall pay a civil penalty of \$1,000.00, within thirty (30) days of the issuance of this order.

IT IS FURTHER ORDERED, that before the Board would consider an application for reinstatement, the Respondent must have paid the civil penalty imposed herein and must provide documentation that he has either performed all professional appraisal services for which he has received payment or has refunded any fees, in full, for services not performed.

Dated this *10th* day of *March*, 1998.

[REDACTED]
David R. Hicks, Appraiser [REDACTED]
Chairperson
Iowa Real Estate Appraiser Examining Board

cc: Pamela Griebel

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

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA REAL ESTATE APPRAISER
EXAMINING BOARD, an agency
of the State of Iowa, 99AG27211,

Plaintiff,
vs.

RICHARD C. NIDAY
Defendant.

EQUITY NO. CE 00037468

JAN 23 1999

ORDER

POLK COUNTY IOWA
99 JAN 22 PM 2:33
CLERK DISTRICT COURT

NOW ON THIS 21 day of January, 1999, following a hearing on the Board's request for a temporary injunction held on January 8, 1998, the Court FINDS as follows:

IT IS HEREBY ORDERED that the Board's petition for temporary injunctive relief is GRANTED. The Defendant Richard Niday is temporarily enjoined from representing himself as a certified real estate appraiser.

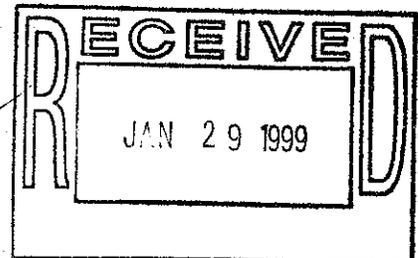


Judge Robert D. Wilson
Fifth Judicial District

Copies to:

Richard C. Niday
712 52nd Street
West Des Moines, IA 50265

Heather L. Adams
Assistant Attorney General
Hoover State Office Building
Des Moines, IA 50319



To file

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

Iowa Real Estate Appraiser
Examining Board, an agency
of the State of Iowa, 99AG27211

Equity No. CE 37468

Plaintiff,

Default Judgment

v.

Richard C. Niday,

Defendant.

FILED
POLK COUNTY, IA.
99 JUN 14 PM 1:26
CLERK DISTRICT COURT

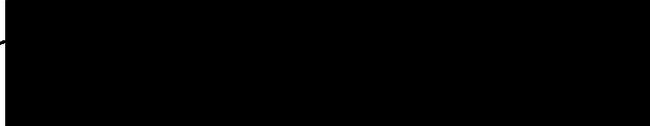
NOW ON THIS 15th day of June, 1999, upon the Application for Default Judgment of the Iowa Real Estate Appraiser Examining Board ("Board"), the Court having reviewed the verified allegations of the Petition, the Application for Default Judgment and attached Notice of Intent to File Written Application for Default and Affidavit in Support of Default Judgment, and being otherwise fully advised in the premises, FINDS default judgment should be entered for the relief prayed for in the Petition.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

Richard C. Niday is permanently enjoined from representing himself as a certified real estate appraiser pursuant to Iowa Code sections 272C.3(g), 543D.3 and

F

543D.15 (1999), until such time as the Board has reinstated his certificate as a certified real estate appraiser. Costs are assessed to the Defendant.


Judge, Fifth Judicial District

Presented to the Court by:

PAMELA D. GRIEBEL 344482225
Assistant Attorney General

Copies to: *led 1/14*
12/14

Pamela D. Griebel
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319

Richard C. Niday
712 52nd Street
West Des Moines, Iowa 50265

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA REAL ESTATE APPRAISER)
EXAMINING BOARD, an agency of)
the State of Iowa, 99AG27211)

Plaintiff,)

vs.)

RICHARD C. NIDAY.)

Defendant.)

Equity No. CE 37468

CLERK DISTRICT COURT

01 APR 13 AM 8:31

FILED
POLK COUNTY, IOWA

CONSENT AGREEMENT

COMES NOW the Iowa Real Estate Appraiser Examining Board (Board) and Richard Niday, and enter into the following consent agreement:

1. The Defendant, Richard Niday, admits that he violated the District Court Order of June 14, 1999, by representing himself as a certified real estate appraiser on or about March 31, 2000 and April 3, 2000, as reflected in the Plaintiff's "Application for Contempt," and admits that he is in contempt of court for these violations.

2. The Plaintiff and the Defendant consent to the District Court entering an order finding the Defendant in contempt, fining the Defendant \$250, plus any court costs, and admonishing the Defendant that any further violations of the District Court Order of June 14, 1999 may result in the maximum punishment of a \$500 fine and six

months imprisonment in the county jail.

3. The Defendant understands by entering into this Consent Agreement that he is waiving his right to a hearing in this matter, and the Defendant is entering into this Consent Agreement knowingly and voluntarily.

4. The Plaintiff and Defendant respectfully request the Court approve the proposed order finding the Defendant in contempt of court.

APPROVED AND ACCEPTED BY THE PLAINTIFF:


CHAIR, Richard E. Bruce
Iowa Real Estate Appraiser Examining Board

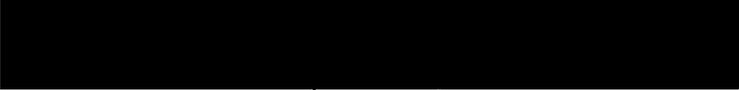
4/13/01
Date

APPROVED AS TO FORM BY PLAINTIFF'S COUNSEL:


Cristina Kuhn PK 1019608
Assistant Attorney General

4-13-01
Date

APPROVED AND ACCERTED BY THE DEFENDANT:


Richard C. Niday (notarized signature required)

4-13-01
Date

Subscribed and sworn to before me this 13th day of April, 2001.


Notary Public in and for the State of Iowa

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA REAL ESTATE APPRAISER)
EXAMINING BOARD, an agency of)
the State of Iowa, 99AG27211)

Plaintiff,)

vs.)

RICHARD C. NIDAY.)

Defendant.)

Equity No. CE 37468

ORDER FINDING DEFENDANT
IN CONTEMPT

CLERK DISTRICT COURT
POLK COUNTY, IA
MAY 13 2001

Before the Court for consideration is an Application for Contempt filed by the Plaintiff, Iowa Real Estate Appraiser Examining Board, and a Consent Agreement, filed by the Plaintiff and the Defendant, Richard Niday. The Application for Contempt alleges that the Defendant, on or about March 31, 2000 and April 3, 2000, violated a June 14, 1999 order restraining him from representing himself as a certified real estate appraiser. The Defendant acknowledges that he did violate the injunction on those dates and admits that he is in contempt of court.

Upon full consideration, it is hereby ordered that the Defendant is found in contempt of court and is fined \$250, plus court costs, to be paid by May 13, 2001. The Defendant is further admonished that any further violations of the injunction may result in a fine up to \$500 and imprisonment not to exceed six months in the county jail.

So ordered on this 13th day of April, 2001.


Judge, Fifth Judicial District

Copy to:

41301
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Richard C. Niday
712 52nd Street
West Des Moines, Iowa 50265

Cristina Kuhn
Assistant Attorney General
Hoover Building, 2nd Floor
Des Moines, IA 50319