BEFORE THE IDAHO REAL ESTATE APPRAISER BOARD

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In the Matter of the License of:	)	Case No. REA-L1A-02-97-008
	)	
DAVID L. VOTAW,	)	
License No. LRA-278,	)	**CONSENT ORDER**
	)	
Respondent.	)	
	)	

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WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action is acknowledged by Licensed Real Estate Appraiser David L. Votaw (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code, the Idaho Real Estate Appraisers Act.

2. Respondent is a licensee of the Idaho Real Estate Appraiser Board and holds license number LRA-278 to practice real estate appraising in the State of Idaho. Respondent's license is and has been in full force and effect at all times pertinent herein. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Pursuant to Idaho Code § 54-4104(11) and IDAPA 28.18.01.300, Respondent is licensed to appraise residential real property consisting of: (1) one to four noncomplex residential units having a transaction value less than $1 million, and (2) one to four complex residential units having a transaction value less than $250,000.

4. Idaho Code § 54-4104(6) describes a "noncomplex appraisal" as one in which the subject property has an active market of essentially identical properties, there is adequate market data available, adjustments do not exceed the typical range found in the market for essentially identical properties, and in the instance of residential property, the contract sales price would fall within the market norm for homes or lots within the same area.

5. On or about February 13, 1997, Respondent issued an appraisal report of the real property located at 4125 North 24th East Street, Mountain Home, Idaho (the "subject property").

6. Respondent's appraisal reflects that the estimated market value of the subject property is $375,000.00.

7. In his appraisal, Respondent:

a. Used comparables which were located in higher-end subdivisions in Boise, indicating that there were no comparable properties in Mountain Home;

b. Made adjustments for Comparable Sale #1 which constituted 15% of the sales price; for Sale #2, 16%; and for Sale #3, 16%, indicating that the adjustments exceeded the typical range found in the market for essentially identical properties; and

c. Appraised a property where the contract sales price did not fall within the market norm for homes or lots within the same area.

8. Respondent's appraisal of the subject property constitutes a complex appraisal with a transaction value of over $250,000, outside the scope of Respondent's licensure.

9. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraisal and would constitute grounds for disciplinary action against Respondent's license to practice real estate appraisal in the State of Idaho.

10. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby agrees to the discipline against his license as set forth in Section C below.

B.

I, David L. Votaw, by affixing my signature hereto, acknowledge that:

1. I have read and understand the allegations pending before the Board, as stated above in Section A. I further understand that these allegations constitute cause for disciplinary action upon my license to appraise real estate in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses who would testify against me; the right to present evidence in my favor or to call witnesses in my behalf, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations against me.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

1. Based upon the foregoing stipulation, it is agreed that the Board may issue the following order:

a. Respondent shall attend fifteen (15) hours of continuing education, consisting of a course in Uniform Standards of Professional Appraisal Practice, within 120 days of the entry of the Board's Order. Respondent shall, within 30 days after completion of the 15 hours of instruction, provide the Board with proof of attendance. This 15-hour continuing education requirement is in addition to any other hours of continuing education Respondent is required to take to maintain his license.

b. Respondent shall pay a fine of ~~Two~~ One Hundred and No/100 Dollars ($~~200~~100.00) to the Board to offset costs incurred in investigating and evaluating the complaint within twenty (20) days of entry of this Consent Order.

2. The violation of any of the terms of this stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this stipulation.

D.

1. It is hereby agreed between the parties that this settlement agreement shall be presented to the Board with a recommendation for approval from the Attorney General's Office at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept or reject this settlement agreement, and if rejected by the Board, a formal complaint may be filed against the Respondent. Respondent hereby agrees to waive any right he may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this settlement agreement is rejected.

3. If the settlement agreement is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence against him at the subsequent disciplinary hearing.

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4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

I have read the above stipulation fully and have discussed it with my counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I also understand that by its terms the Idaho Real Estate Appraiser Board will issue an Order on this stipulation whereby I will be ordered to obtain 15 hours of continuing education and pay a fine in the amount of $100. I agree to the above stipulation for settlement.

DATED this 14 day of August, 1998.

David L. Votaw, Respondent

I concur in the stipulation and order.

DATED this 17 day of August, 1998.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Kirsten Wallace
Kirsten L. Wallace
Deputy Attorney General

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Idaho Real Estate Appraiser Board in this matter and shall be effective on the 20th day of August, 1998. **IT IS SO ORDERED.**

IDAHO REAL ESTATE APPRAISER BOARD

By Ed Morse
Ed Morse, Chair