

**BEFORE THE MISSOURI  
STATE REAL ESTATE APPRAISERS COMMISSION**

**MISSOURI REAL ESTATE APPRAISERS )  
COMMISSION, )**

**Petitioner, )**

**v. )**

**DAVID D. HAND )**

**Respondent. )**

**No. 2005-005448PV**

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DISCIPLINARY ORDER**

At its scheduled meeting on March 12, 2010, and pursuant to notice described in the Findings of Fact, the Missouri State Real Estate Appraisers Commission (MREAC) took up the probation violation complaint alleging that David D. Hand (Hand) has failed to comply with the terms of his probation.

The Commission appeared at the hearing through Assistant Attorney General Daniel Jacob. Hand was present at the hearing and was represented by counsel Jamie Cox. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the MREAC's legal advisor at the hearing, during deliberations, and in the preparation of this order.

**Findings of Fact**

1. The MREAC was established pursuant to § 339.507, RSMo Cum. Supp. 2009, for the purpose of executing and enforcing the provisions of §§

339.500 through 339.549, RSMo, as amended, the Missouri Certified Licensed Real Estate Appraisers Act.

2. David D. Hand is a natural person and is licensed by the MREAC as a certified residential appraiser, License No. 2002009489. Hand's certification is current and active.

3. On or about September 26, 2008, the MREAC and Hand mutually agreed and stipulated through a "Joint Motion for Consent Order, Joint Stipulation and Conclusions of Law, Waiver of Hearings Before the Administrative Hearing Commission and the Missouri Real Estate Appraisers Commission, and Disciplinary Order" (hereinafter referred to as the "Disciplinary Order") to Hand or the certification of Hand as a state-certified residential real estate appraiser being placed on probation for one year.

4. The Disciplinary Order became effective on October 3, 2008.

5. The relevant terms of the probationary period are stated as follows in the Disciplinary Order:

Section 339.535, RSMo. states:

State certified real estate appraisers and state licensed real estate appraisers shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

1. Probation. Hand's certification as a state-certified residential real estate appraiser, no. 200209489, is hereby placed on PROBATION for ONE (1) YEAR from the effective date of this disciplinary order. The period of probation is referred to hereinafter as either

“the probationary period” or “the disciplinary period”. During the period of probation, Hand shall be entitled to practice as a state-certified residential real estate appraiser provided he pays all required fees, has maintained his certification current and active, and adheres to all the terms stated herein.

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F. During the disciplinary period, Hand shall comply with all provisions of §§ 339.500 through 339.549, RSMo, all rules and regulations promulgated thereunder, and all federal and state laws. “State” includes the state of Missouri and all other states and territories of the United States. Any cause to discipline Hand’s certification as a real estate appraiser under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Joint Stipulation.

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2. Upon the expiration of the disciplinary period, the certification of Hand shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREAC determines that Hand has violated any term or condition of this Joint Stipulation, the MREAC may, in its discretion, vacate and set aside the discipline imposed herein and impose such further discipline as it shall deem appropriate.
3. No additional discipline shall be imposed by the MREAC pursuant to the preceding paragraphs of this Joint Stipulation without notice and opportunity for hearing before the MREAC as a contested case in accordance with the provisions of Chapter 536, RSMo. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the MREAC may choose to conduct a hearing before it to determine whether a violation occurred and may impose further discipline.

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6. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the parties agree that the MREAC may choose to conduct a hearing before it either during the disciplinary period, or soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Hand agrees and stipulates that the MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

6. On or about December 15, 2008, Hand completed and signed a summary appraisal report for residential real estate located at 1708 Red Barn Road, Raymore, MO 64083 (“Red Barn Road”). The effective date of the appraisal report was December 15, 2008. This appraisal valued the property at \$190,500. This appraisal shall be referred to hereinafter as the “Red Barn Road Appraisal Report.”

7. Pursuant to § 339.535, RSMo, and the terms and conditions of the Disciplinary Order, Hand was required to develop and report the results of the Red Barn Road Appraisal Report in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2008-2009 Edition.

8. The Red Barn Road Appraisal Report was prepared for Morrison Capital Corporation, a Missouri Corporation.

9. In preparation of the Red Barn Road Appraisal Report, Hand made significant and substantial errors of omission and/or commission, including, but not limited to:

- a. Failed to examine relevant and accessible information regarding comparable sales resulting in an inaccurate finding of the neighborhoods' range of prices and predominate value.
- b. Mistakes the range of sales within his defined neighborhood as \$180,000 to \$200,000 with a predominate value of \$190,000, when the range was approximately \$48,000 to \$345,342, with and average price of approximately \$169,470.
- c. Identifying the property as having a full basement when the basement only contained 231 total square feet, which is not considered a full basement;
- d. Overestimating the square footage of the gross living area above grade by including the basement in the calculation when the basement is below grade living area;
- e. Failing to properly analyze the property's subdivision and homeowner's amenities.

10. In the preparation of the Sales Comparison Analysis in the Red Barn Road Appraisal Report, Hand made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Misreporting the property's square footage by using below grade square footage in gross living area calculation.
- b. Using two superior comparables from superior subdivisions that included many more amenities and much higher median sales

prices, while omitting three sales of similar properties between \$133,000 and \$166,000 in the immediate subdivisions;

11. In the preparation of the Cost Approach in the Red Barn Road Appraisal Report, Hand made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Failing to develop an opinion of site value by an appropriate method or technique, but rather using the assessor's land value when land sales data in the immediate area was available.
- b. Failed to and/or improperly relied on cost data to estimate the cost of the new improvements.

12. The Red Barn Road Appraisal Report overestimates the value, is not credible, and/or is misleading.

13. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal in violation of USPAP Standard 1 and SR 1-1(a).

14. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b).

15. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand rendered appraisal services in a careless and/or negligent manner in violation of USPAP Standard 1 and SR 1-1(c).

16. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand failed to identify the location and physical, legal, and economic attributes of the property in violation of USPAP Standard 1 and SR 1-2(e)(i).

17. Hand's errors and/or omissions in the preparation of the Sales Comparison Analysis, as alleged herein, constitute violations of USPAP Standard 1 and Standards Rule ("SR") 1-4(a).

18. Based on Hand's errors and/or omissions in the preparation of the Cost Approach in the Red Barn Road Appraisal, as alleged herein, Hand failed to develop an opinion of site value by an appropriate appraisal method or technique in violation of USPAP Standard 1 and Standards Rule ("SR") 1-4(b)(i) and (ii).

19. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand failed to clearly and accurately set forth the appraisal in a manner that would not be misleading and violated USPAP Standard 2 and SR 2-1(a).

20. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand failed to prepare a report that contained sufficient information to enable the

intended users of the appraisal to understand the report properly and violated USPAP Standard 2 and SR 2-1(b).

21. By failing to provide adequate support for the reasoning and conclusions in the Sales Comparison Analysis in the Red Barn Road Appraisal Report, as alleged herein, Hand failed to summarize the information sufficient to identify the real estate involved in the appraisal, including physical and economic property characteristics relevant to the assignment in violation of USPAP Standard 2 and SR 2-2(b)(iii).

22. By failing to provide adequate support for the reasoning and conclusions in the Sales Comparison Analysis in the Red Barn Road Appraisal Report, as alleged herein, Hand failed to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions, in violation of USPAP SR SR 2-2(b)(viii).

23. Based on Hand's errors and/or omissions in developing and reporting the results of the Red Barn Road Appraisal, as alleged herein, Hand communicated results in a misleading and/or fraudulent manner, in violation of the Conduct section of the USPAP Ethics Rule.

24. Hand's conduct, as alleged herein, demonstrates incompetency, misconduct, gross negligence, dishonesty, fraud and/or misrepresentation in the performance of the functions and/or duties of a real estate appraiser, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(5), RSMo.

25. Hand's conduct, as alleged herein, violates standards for the development and/or communication of real estate appraisals as provided in or pursuant to §§ 339.500 to 339.549, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(6), RSMo.

26. Hand's conduct, as alleged herein, demonstrates a failure and/or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and/or communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(8), RSMo.

27. Hand's conduct, as herein, demonstrates negligence and/or incompetence in developing an appraisal, in preparing an appraisal report, and/or in communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(9), RSMo.

28. Each of Hand's USPAP violations, as alleged herein, constitutes a violation of § 339.535, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(7) and (10), RSMo.

29. Hand's conduct, as alleged herein, violates the professional trust and confidence he owed to his clients, the intended users of the appraisal report, and the public, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(14), RSMo.

30. Hand's conduct, as alleged herein, demonstrates that Hand rendered appraisal services in violation of the USPAP Ethics Rule, USPAP Standards 1 and

2, the USPAP Standards Rules cited herein, and/or § 339.535, RSMo, providing cause to discipline Hand's certification as a state-certified residential real estate appraiser pursuant to §§ 339.532.2 (5), (6), (7), (8), (9), (10) and (14), RSMo.

31. On or about February 16, 2010, the MREAC provided notice to Hand and his counsel, of the May 12, 2010 hearing at 9:00 a.m. at the Missouri Council for School Administrators Building, 3550 Amazonas Drive, Jefferson City, MO 65109.

32. At the May 12, 2010 hearing, expert David Millin testified on behalf of the MREAC and expert James Mattis testified on behalf of Hand.

#### **Conclusions of Law**

33. The MREAC has jurisdiction over this matter pursuant to page 9, paragraph 6 of the Disciplinary Order, which provides, in pertinent part: "[T]he MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred."

34. The Order further provides on page 8, paragraph 3, in pertinent part:

If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the MREAC may choose to conduct a hearing before it either to determine whether a violation occurred and may impose further disciplinary action.

35. The MREAC also has jurisdiction pursuant to § 324.042, RSMo to determine whether Hand has violated the terms and conditions of the September 26, 2008 Order. Section 324.042 states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

36. Hand violated the terms of the Settlement Agreement, Part II, ¶ 1(F) as a result of his violations of USPAP Ethics Rule, USPAP Standards 1 and 2, the USPAP Standards Rules cited herein, and/or § 339.535, RSMo. as detailed in paragraphs 3 through 35 above.

37. The September 26, 2008 Order and § 324.042 allow the MREAC to take such disciplinary action that the MREAC deems appropriate for failure to comply with the terms of the September 26, 2008 Order pursuant to §§ 339.532.2 (5), (6), (7), (8), (9), (10) and (14), RSMo.

#### **Decision and Order**

It is the decision of the MREAC that Hand has violated the terms of the September 26, 2008 Order, and that his license is, therefore, subject to further disciplinary action.

The MREAC orders that Hand's state certification for residential real estate appraiser, number 2002009489, be and is hereby placed on PROBATION for an additional period of one (1) year from the effective date of this Order, subject to the terms and conditions set forth below.

IV.

## TERMS AND CONDITIONS

During the aforementioned probation, David Hand shall be entitled to present himself and serve as a certified residential appraiser subject to the following terms and conditions:

- A. During the probationary period, Hand shall not supervise any real estate appraisal, as defined by § 339.503(1), RSMo (as amended), of property located in the state of Missouri nor sign any appraisal for property located in Missouri as an appraisal supervisor.
- B. During the probationary period, Hand shall successfully complete an approved 15-hour continuing education course regarding the Uniform Standards of Professional Appraisal Practice (USPAP). This course shall be in addition to regular continuing education requirements for the renewal period.
- C. During the probationary period, Hand shall maintain a log of all appraisal assignments completed, including appraisal values. Hand shall submit a true and accurate copy of his log to the MREAC every three (3) months after the effective date of this Order. Each log, except for the final log, shall be submitted within 15 days after the end of the respective six month period. Hand shall submit the final log 30 days prior to the end of the probationary period. All logs shall comply with rule 20 CSR 2245-2.050.
- D. During the disciplinary period, Hand shall keep the Commission informed of his current work and home telephone numbers. Hand shall notify the Commission in writing within ten days (10) of any change in this information.
- E. During the probationary period, Hand shall timely renew his certification granted hereby and shall timely pay all fees required for certification and comply with all other Commission requirements necessary to maintain said license in a current and active state.
- F. During the probationary period, Hand shall accept and comply with unannounced visits from the Commission's representatives to monitor compliance with the terms and conditions of this Order.
- G. During the disciplinary period, Hand shall appear in person for interviews with the Commission or its designee upon request.

- H. Hand shall submit written reports to the Commission every six (6) months during the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Commission on or before July 1, 2010.
- I. Hand shall execute any release or provide any other authorization necessary for the Commission to obtain records of her employment during the terms of the permit.
- J. Hand shall comply with all provisions of §§ 339.500 to 339.549, RSMo; all federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri, all other states and territories of the United States, and the ordinances of political subdivisions of any state or territory. Hand shall immediately report any violation of this provision to the Commission in writing. Hand shall also immediately report any allegation that he has violated this provision to the Commission, in writing. Examples of allegations of such a violation include, but are not limited to, any arrest, summons, inquiry by any law enforcement official into these topics, or inquiry into these topics by a health oversight agency. Hand shall sign releases or other documents authorizing and requesting the holder of any closed record related to this paragraph to release such records to the Commission.
- K. Hand is hereby informed that the Missouri Real Estate Appraisers Commission will maintain this Order as an open record of the Commission as provided in Chapters 610 and 324, RSMo. He shall truthfully answer any inquiry regarding her license status or disciplinary history.
- L. Hand shall immediately submit documents showing compliance with the requirements of this Order to the Commission when requested.
- M. In the event the Commission determines that Hand has violated any term or condition of this Order, the Commission may, in its discretion, after an evidentiary hearing, suspend, revoke, or otherwise lawfully discipline Williams' certification.
- N. No Order shall be entered by the Commission pursuant to the preceding paragraph of this Order without notice and an opportunity for hearing before the Commission in accordance with the provisions of Chapter 536, RSMo.

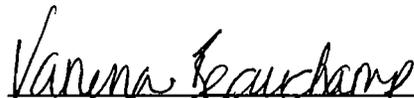
- O. If, at any time during the probationary period, Hand changes his address from the state of Missouri, or ceases to maintain his certified residential appraiser license current or active under the provisions of Chapter 339, RSMo (as amended), or fails to keep the Commission advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- P. Unless otherwise specified by the Commission, all reports, documentation, notices, or other materials required to be submitted to the Commission shall be forwarded to: Missouri Real Estate Appraisers Commission, P.O. Box 1335, Jefferson City, Missouri 65102.
- Q. Any failure by Hand to comply with any condition of discipline set forth herein constitutes a violation of this Order.

This Order does not bind the Commission or restrict the remedies available to it concerning any violation by Respondent of the terms and conditions of this Order, Chapter 339, RSMo (as amended), or the regulations promulgated thereunder.

The Board will maintain this Order as an open and public record of the Board as provided in Chapters 339, 610, and 324, RSMo

SO ORDERED this 27<sup>th</sup> day of May, 2010.

**MISSOURI REAL ESTATE APPRAISERS COMMISSION**

  
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**Vanessa Beauchamp,**  
**Executive Director**