BEFORE THE REAL ESTATE
APPRAISER LICENSURE AND
CERTIFICATION BOARD
CAUSE NO: **REAB 09-54**

IN THE MATTER OF THE

LICENSE OF TIMOTHY ZUKOSKI

LICENSE NO.: CR49800013 (Active)

FILED
AUG 18 2009
Indiana Professional
Licensing Agency

COMPLAINT

This complaint is brought against the Licensed Residential Appraiser license of Timothy Zukoski ("Respondent") by the State of Indiana, by counsel, Deputy Attorney General Myron A. Rahn III on behalf of the Office of the Attorney General ("Petitioner") and pursuant to Indiana Code 25-1-7-7, Indiana Code 25-1-6-3, Indiana Code 25-34.1-2-5 *et seq.*, the Administrative Orders and Procedures Act, Indiana Code 4-21.5-3 *et seq.*, and Indiana Code 25-1-11-1 *et seq.* In support, Petitioner alleges and states the following:

FACTS

1. Respondent's address on file with the Real Estate Appraiser Licensure and Certification Board ("Board") is 6685 Broadway, Suite 1, Merrillville, Indiana 46410. Respondent is a Certified Residential Appraiser holding license number CR49800013 (Active).

FACTS REGARDING PREVIOUS DISCIPLINE

2. On or about July 24, 2006, the Indiana Attorney General filed an Administrative Complaint against Respondent for his appraisal report of 7149 N. 400 West, Winamac, Indiana 46996-8086.

3. In case number REAB 06-066, the Board found that Respondent was professionally incompetent when he made numerous errors in the appraisal mentioned above.

4. The Board issued Respondent a letter of reprimand for the licensing violations.

FACTS REGARDING SUBJECT PROPERTY

5. On or about August 22, 2005, Respondent and John Edward Zukoski ("Zukoski"), an appraiser trainee supervised by Respondent at all times relevant herein, prepared an appraisal report on the real property located at 1716 Canton Street, Elkhart, Indiana 46514 ("Subject Property") with an effective date of August 22, 2005, and an estimated value of $128,000.

6. On or about May 13, 2008, Certified Residential Appraiser Robert Dorsam ("Dorsam") performed a review appraisal on Subject Property with an effective date of August 23, 2005, and an estimated value of $75,000.

7. The appraisal report for Subject Property contained several misrepresentations, errors, and omissions which include, but are not limited to, the following:

a. Zukoski's estimated value of $128,000 is $53,000 or 59% greater than Dorsam's value of $75,000.

b. Zukoski used comparables that were not the most similar to Subject Property as comparable sales.

c. All comparables used by Zukoski either had a partial or a full basement although the Subject Property is located on a slab.

d. Zukoski listed Comparable 1 as a ranch when in fact it is a two story home.

e. Zukosi failed to use several similar properties within the Subject Property's neighborhood.

f. The comparables used by Zukoski had sale prices considerably higher than the predominate price of the Subject Property's neighborhood.

g. While Subject Property had an actual age of forty-six (46) years, Zukoski reported an effective age of fifteen (15) years without an explanation.

8. Respondent signed the appraisal report as the supervising appraiser certifying that the appraisal was in compliance with USPAP.

COUNT I

9. Paragraphs 1 through 8 are repeated and incorporated herein.

10. Respondent's conduct as described above constitutes a violation of Ind. Code 25-1-11-5(a)(4)(B) in that Respondent continued to practice even though he became unfit to practice due to his failure to keep abreast of professional theory or practice, by violating 2005 USPAP Standard Rule 1-1(c), as adopted by 876 IAC 3-6-2, by rendering appraisal services in a careless or negligent manner by making errors including, but not limited to, using non-similar comparables when similar ones were available and reporting that Comparable 1 was a ranch style home when in fact it was a two story home.

COUNT II

11. Paragraphs 1 through 10 are repeated and incorporated herein.

12. Respondent's conduct as described above constitutes a violation of Ind. Code 25-1-11-5(a)(4)(B) in that Respondent continued to practice although he became unfit to practice due to his failure to keep abreast of current professional theory or practice by violating 2005 USPAP Standard Rule 1-4(a), as adopted by 876 IAC 3-6-2, when Respondent failed to utilize similar comparables in the Subject Property's neighborhood that were available in favor of comparables with considerably higher prices.

COUNT III

13. Paragraphs 1 through 12 are repeated and incorporated herein.

14. Respondent's conduct as described above constitutes a violation of Ind. Code 25-1-11-5(a)(4)(B) in that Respondent continued to practice although he became unfit to practice due to his failure to keep abreast of current professional theory or practice by violating 2005 USPAP Standard Rule 2-1, as adopted by 876 IAC 3-6-2, when Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading by making errors, including, but not limited to, using comparable sales that were not the most similar, and by reporting that Subject Property had an actual age of forty-five (45) years but an effective age of fifteen (15) years without an explanation. These errors led, in part, to a difference in value between the Subject Property Appraisal ($128,000) and the review appraisal ($75,000) of $53,000, or approximately 59%.

COUNT IV

15. Paragraphs 1 through 14 are repeated and incorporated herein.

16. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-1-11-5(a)(4)(B) in that Respondent has continued to practice even though he has become unfit to practice due to his failure to keep abreast of current professional theory or practice, by violating 876 IAC 3-6-9, when Respondent failed to properly supervise his appraiser trainee, John Edward Zukoski, during the course of the Subject Property appraisal.

WHEREFORE, Petitioner requests an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all of the cost incurred in the prosecution of this case; and
3. Provides any other relief the Board deems just and proper under Ind. Code § 25-1- 11-12.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Atty. No.: 1958-98

By: _____
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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2009, a true and correct copy of this Complaint was served upon the below listed party via First Class U.S. Mail, postage prepaid.

Timothy Zukoski
6685 Broadway, Suite 1
Merrillville, Indiana 46410

_____
Myron A. Rahn III