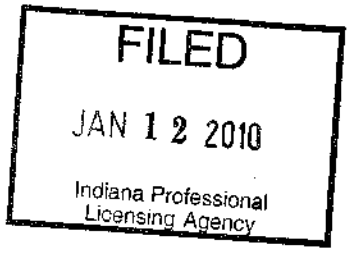
BEFORE THE REAL ESTATE
APPRAISER LICENSURE AND
CERTIFICATION BOARD
CAUSE NO: **REAB 09-54**

IN THE MATTER OF THE)
)
LICENSE OF TIMOTHY ZUKOSKI)
)
LICENSE NO.: CR49800013 (Active))



AMENDED COMPLAINT

This amended complaint is brought against the Licensed Residential Appraiser license of Timothy Zukoski ("Respondent") by the State of Indiana, by counsel, Deputy Attorney General Heather C. Kennedy 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 1716 CANTON STREET APPRAISAL

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 ("Canton Street") 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 Canton Street with an effective date of August 23, 2005, and an estimated value of $75,000.

7. The appraisal report for Canton Street 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 Canton Street as comparable sales.

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

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

e. Zukoski failed to use several similar properties within the Canton Street's neighborhood.

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

g. While Canton Street 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.

FACTS REGARDING 301 N. WATER STREET APPRAISAL

9. On or about October 6, 2007, Respondent prepared an appraisal report on the real property located at 301 N. Water Street, Hillsboro, Indiana 47949 ("Water Street") with an effective date of October 6, 2007, and an estimated value of $117,000.

10. On or about December 12, 2008, Certified Residential Appraiser Matthew Long ("Long") performed a review appraisal on Water Street with an effective date of October 6, 2007, and an estimated value of $65,000.

11. The appraisal report for Water Street contained several misrepresentations, errors, and omissions which include, but are not limited to, the following:

a. Respondent's estimated value of $117,000 is $52,000 or 44% greater than Long's value of $65,000.

b. Respondent used comparables that were not the most similar to Water Street as comparable sales.

i. Three of the comparables Respondent used are much newer than Water Street.

ii. One comparable is a rural property located on four plus acres.

c. The data and analysis presented in the sales comparison approach was not complete and accurate.

i. Respondent used an incorrect site size for the Water Street

appraisal. There was no supporting reason given for the adjustment in site view.

ii. Respondent adjusted for age of two comparables, but failed to adjust for age on the other comparables.

iii. Respondent failed to make adjustments for difference in basement size on the comparables.

iv. The MLS states that the basement in Comparable 1 is completely finished, yet no value was given for the finished basement.

v. The MLS states that Comparable 2 has a 26' x 30' pole barn and that the house was remodeled, this is not reflected in Respondent's appraisal.

vi. The MLS states that Comparable 3 indicates there are trees, creek and shed with electric and horse stall, but Respondent still adjusted $4,000 for an inferior site and gave no value to the shed.

d. Respondent's appraisal failed to note that Comparable 3 was transferred in April 2006 to HUD for $50,000.

e. The data and analysis presented in the income and cost approaches were not complete and accurate.

i. The income approach to value was not developed.

ii. The cost approach is completely unsupported. The land value of $30,000 for the Water Street property does not appear to be reasonable for Hillsboro.

CANTON STREET COUNTS

COUNT I

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

13. 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

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

15. 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 Canton Street's neighborhood that were available in favor of comparables with considerably higher prices.

COUNT III

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

17. 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 Canton Street 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 Canton Street Appraisal ($128,000) and the review appraisal ($75,000) of $53,000, or approximately 59%.

COUNT IV

18. Paragraphs 1 through 17 are repeated and incorporated herein.

19. 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 Canton Street appraisal.

WATER STREET COUNTS

COUNT V

20. Paragraphs 1 through 19 are repeated and incorporated herein.

21. 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 2007 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, Respondent's appraisal report failed to adjust for a completely finished basement in Comparable 1, Respondent's

appraisal report failed to report that Comparable 2 has a pole barn and was remodeled, and Respondent's appraisal report adjusted Comparable 3 as an inferior site, although Comparable 3 has trees, a creek and a shed that was not reported.

COUNTY VI

22. Paragraphs 1 through 21 are repeated and incorporated herein.

23. 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 2007 USPAP Standard Rule 1-1(c), as adopted by 876 IAC 3-6-2, when Respondent rendered appraisal services in a careless manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results, including, but not limited to, Respondent's failure to report a complete an accurate transfer history for Comparable 3, by not disclosing its April 2006 transfer to HUD for $50,000.

COUNT VII

24. Paragraphs 1 through 23 are repeated and incorporated herein.

25. Respondent's conduct as described above constitutes a violation of Ind. Code 25-1-11-5(a)(4)(B) in that Respondent has failed to keep abreast of current theory or practice by violating the 2007 USPAP Standards Rule 2-1(a), as adopted by 876 IAC 3-6-2, when Respondent failed to clearly and accurately set forth the appraisal in a manner that was not misleading, including, but not limited to, Respondent's appraisal report uses three comparables that are all much newer than the Water Street Property, one comparable is a rural property that is located on four plus acres and Respondent only adjusted for age on two of the comparables.

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

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Heather C. Kennedy
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Indianapolis, Indiana 46204
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of January, 2010, a true and correct copy of this Complaint was served upon the below listed party via First Class U.S. Mail, postage prepaid.

Frost Brown Todd
Attn: Michelle Maslowski
201 North Illinois Street, Suite 1900
P.O. Box 44961
Indianapolis, IN 46244

Heather C. Kennedy
Heather C. Kennedy

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