

Iowa Professional Licensing Bureau Newsletter

www.state.ia.us/government/com/prof

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BEWARE:

Your license is at risk if you owe debts to the state!

Iowa law has long placed licenses at risk for nonpayment of child support or college student loans. This past session the Legislature upped the ante. Starting July 1, 2008, professional and other types of licenses are at risk for nonpayment of court fines or other debts owed to the State of Iowa. This article will focus on professional licensing boards and commissions, but the same process will apply to persons and business entities licensed by the Superintendent of Banking or other licensing authorities.

Senate File 2428, signed by Governor Culver May 15, 2008, arose late in the 2008 session as a bill to address the backlog in delinquent court fines, criminal restitution, and similar debts owed to the state and to crime victims. One feature of the bill adds a 25% collection fee to overdue court debt that is placed with a private collection company. Another feature allows the Centralized Collection Unit of the Iowa Department of Revenue to notify licensing authorities when licensees fail to pay or make arrangements to pay court fines or other debts owed to the state, like taxes.

If you owe over \$1,000 in court fines or other debts owed to the State of Iowa, your license may be at risk! Both individual and business or firm licenses can be suspended or revoked for nonpayment of debts owed to the state. A license applicant can also be denied licensure on the same ground—whether applying for an initial license or the renewal of an existing license.

Here is the process under the new law:

Notice to Contact the Department of Revenue Revenue's Centralized Collection Unit (CCU) will notify a licensee of the debt owed to the state and give the licensee

a twenty (20) day period in which to schedule a conference to work out the terms of a repayment agreement. Of course, a licensee can avoid a repayment agreement by paying the debt in full to CCU or, in the case of court debts, to the Clerk of Court in the county in which the debt arose.

Certificate of Noncompliance If a licensee fails to timely contact CCU, fails to set up a repayment schedule, or fails to comply with a repayment agreement, CCU will issue a "Certificate of Noncompliance." The Certificate of Noncompliance is sent to the professional licensing board or commission, or other licensing authority that regulates the applicable license.

Board/Commission Notice to Licensee A board or commission that receives a Certificate of Noncompliance from CCU is required to initiate steps to suspend or revoke the debtor's license. The board or commission will first serve a notice on the licensee to let the licensee know the license will be suspended or revoked. The suspension or revocation will be effective no sooner than thirty (30) days following the notice. The licensee will accordingly have another window of time to pay the debt or make arrangements with CCU to pay the debt in installments.

Suspension/Revocation If a board or commission does not receive word from CCU that the debt has been resolved, the board or commission will issue an order suspending or revoking the licensee's license. In most instances the license will be suspended. If a license is already on suspension, the license will be revoked. A person, business or firm holding a suspended or revoked license is prohibited from practicing in the state of Iowa.

Return to Good Standing After a license has been

suspended or revoked, the licensee is always free to pay the debt or enter into an installment payment agreement with CCU to remove the grounds for the suspension or revocation. The board or commission cannot accept money or resolve these debts. The board or commission will only reinstate a license if it receives a "Withdrawal of Certificate of Noncompliance" from CCU. CCU will issue a "Withdrawal of Certificate of Noncompliance" if the debt is paid or if the licensee enters into an installment payment agreement.

Court Challenge If a licensee feels a "Certificate of Noncompliance" was issued in error, the licensee can file a petition in the district court in which the majority of the debt arose. The licensee does not have a right to a hearing before the board or commission. CCU, not the board or commission, is the defendant in the district court action, although the licensee is required to send a copy of the petition to the board or commission. To be timely, a petition must be filed in district court within thirty (30) days after the board or commission issued the notice of intent to suspend or revoke the license. A timely filed petition will stay the suspension or revocation until the case is concluded. The only issues the court will consider are whether the debtor has been correctly identified and whether the amount of the debt is accurate.

If you owe over \$1,000 in court fines, criminal restitution or similar debts to a Clerk of Court (such as a fine entered after an OWI), or otherwise owe over \$1,000 in taxes or other debts to the state that have been placed with CCU for collection, your license may be at risk. The wise course is to act now to resolve the debt before you face a notice from CCU or your board or commission.

REMEMBER...It's license renewal time!

The following professions are due to renew by June 30, 2008. Paper applications will NOT be mailed this year. Instead you should have received a flyer around May 15 as a notice that it is time to renew your professional license. You will also receive one more reminder soon after June 15 if you have not already renewed. If you have not received a notice, please contact the Bureau to ensure that we have your last known address on file.

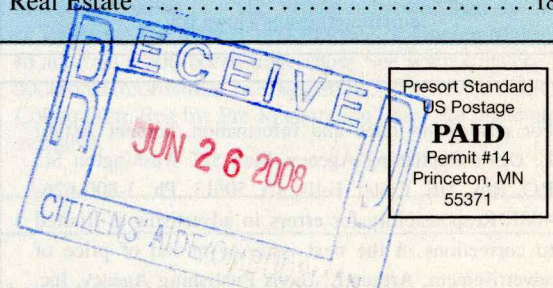
If you fail to renew by your deadline, you may not continue to practice beyond the June 30, 2008 expiration date.

| Accountants (CPAs & LPAs) | Architects | Real Estate Appraisers |
|---|--|--|
| A-K Individuals- \$100.00 active \$50.00 inactive | A-K Individuals – \$200.00 active \$100.00 inactive \$50.00 retired | <u>Certified Appraisers</u> A-K Individuals \$360.00 active \$100.00 inactive |
| All Firm Permits-\$50.00 | <u>Landscape Architects</u> Individuals-\$350.00 | <u>Associate Appraisers</u> A-K Individuals \$250.00 active \$50.00 inactive |

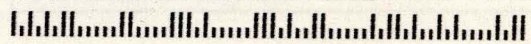
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Iowa Professional Licensing Bureau Newsletter

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Susan Griffel retires . . . her thoughts on the way out . . .

Editors note: Shortly before Susan retired on April 25th, we sat down with her to talk about her seventeen and a half years with the Professional Licensing Bureau and the Iowa Real Estate Commission. Following are excerpts from that conversation.

Tell us what you were doing before joining the PLB in 1990. Were you involved in real estate?

I've really been involved in the real estate industry since 1973. After graduation from UNI with an education degree in 1971 I landed a teaching job in Waterloo, Iowa at Longfellow Elementary. I was about to sign my third year contract for an annual sum of \$9,150, when I decided that I really wanted the opportunity to make more money. Teaching five year olds was great, but it seemed like there was something else out there. A friend suggested that I might enjoy selling real estate. Controlling my own income and schedule were two big selling points. After much thought, I decided to exit the public school arena and enter the real estate profession.

Upon locating an exam prep course, I passed the salesperson exam, got my license and became a member of the Waterloo-Cedar Falls Board of Realtors. I remember listing and selling the most expensive piece of residential property that went through the multiple listing service in 1975. It sold for \$175,000. Wow, how things have changed!!!!

In the late 70's the real estate industry was going through some very tough times. VA Interest rates topped 17% and most transactions were land contracts but somehow, we got through those times and by 1985, when the market improved, I was looking around for a different career. . .that, combined with a love interest, took me to Kansas City where I went to work for a large mortgage banking firm as a loan officer. Much of my time was spent holding training sessions for real estate companies in the Greater Kansas City area. . .educating agents on available mortgage products and qualifying buyers. It was a fun job.

It was during that time I heard about a job opening in Topeka, KS with the Kansas Real Estate Commission. They were looking for an Education Coordinator and I thought that I might make a good candidate. I had teaching experience, eleven years of real estate sales plus a good working knowledge of the mortgage lending industry. I applied for the job and as they say, the rest is history. The job involved traveling the and providing training sessions for instructors, assessing program content, and making recommendations to the Kansas Real Estate Commission. Life was good, I had a great job and I saw it as long term. But, the sands of change were shifting in Iowa.

I stayed in contact with my Iowa real estate friends and learned that during the 1989 Legislative session, a new law had passed creating the UNI Real Estate Education Program and it additionally created a real estate education director position with the Real Estate Commission. This was the job I wanted to go after! It seemed like a perfect fit.

I had been away from my family for almost six years and I wanted to return to Iowa to spend more time with all of them, especially my Mother. My Iowa roots were deeper than I thought. Luck was on my side and I got hired and started as Education Director for the Iowa Real Estate Commission on August 5, 1990.

Tell us about your early years with the Commission.

Within the first sixty days of starting the new job, the licensing exam contractor (ACT) informed the Real Estate Commission they were no longer going to be providing the licensing exam to Iowa candidates.

So, we put the exam services out for competitive bid and within several months we hired a new exam provider and had that problem solved. I spent the next several years traveling the state, attending continuing education classes, talking to agents and forming advisory committees of brokers, school owners, salespersons and real estate instructors. As a result of all the information gathering, I made a lot of recommendations to the Real Estate Commission including expanding, rewriting and refining the prelicense course to sit for the licensing exam, refocusing the mandatory continuing education courses, and improving the broker prelicense education to reflect current laws, rules and practice. We developed standards for approving instructors as well as requiring periodic instructor development workshops.

I always believed that most real estate education courses had an important theoretical basis, but equally important was teaching agents the practical skills required of them when working with their customers and clients. That prompted us to develop two basic skills courses called "Buying Practices" and "Listing Practices".

The industry and advisory committees we worked with wanted to make ethics courses a priority. So, a third course that dealt entirely with the ethical aspects of real estate sales was developed. We had a national ethics trainer and author come to Iowa and provide a seminar on teaching ethics to real estate agents. The basic skills and the ethics course became mandatory



Susan Griffel

for all new agents, as well as requiring already licensed agents to take an ethics course also. As it turned out, Iowa was one of the first states in the country to require ethics training for all licensed agents. To this day, we still have that requirement.

We implemented massive changes in the early years and received acknowledgement from the Real Estate Educators Association (REEA). Iowa was awarded the "Regulator of the Year" award. REEA is a national organization that provides professional development for real estate instructors and organizations involved in real estate education. For that we were proud.

Computer based education for real estate agents was just getting off the ground and I was fortunate enough to work with a Commission that had a lot of vision and knew that there was no point in spending years agonizing over the merits of computer based training. It was here to stay, educationally sound and a viable option for busy agents. Real Estate Commissions across the country were faced with the same issues. We decided to establish some basic guidelines and parameters and allowed some of the required education to be completed online.

Do you have any parting comments?

Working with the Iowa Real Estate Commission and the Professional Licensing Bureau has been nothing but an absolute pleasure. Without exception, I have enjoyed every moment. I hope that I have changed some minds for those who may have thought that working with a government agency was going to be tedious and difficult. The bottom line was always to improve the educational experience for Iowa's licensed agents. We just had to figure out the best way to do that.

Iowa has some of the best instructors and committed real estate education providers in the country. And the Commission staff. . .Dave Batts, Sandy Malek, Jeff Evans, Dana Klisares, and the Bureau Chief, Shari Fett. . . .They just don't get any better. . . .

The Following are comments from those that have worked with Susan:

"I first met Susan Griffel when I was teaching an instructor workshop for the Iowa Association of Realtors. The class was buzzing about the new, first-time-ever education director, a recently created position for the Iowa Real Estate Commission. Little did I know the impact this woman would have on my life!"

Susan Griffel has quietly and effectively enhanced real estate education for Iowa real estate licensees. Today, because of her commitment to the on-going education required by real estate licensees in Iowa, they have many options by which they can complete required education courses.

Susan was open to the development of new ideas. As the Education Director, she was one of the first in the nation to even consider alternatives to traditional classroom settings. With her guidance, the Iowa Association of Realtors (IAR) was able to offer required classes over the Iowa Communication Network (ICN) allowing us to reach more than a dozen locations for each single training class. Shortly thereafter, IAR was approved to offer computer-based prelicense classes coupled with live instruction which eventually evolved into totally web-based offerings.

Susan also assisted in the development of new instructors by them together once a year for an instructor workshop. She knew which outside instructors could bring value to Iowa instructors because she was active in the international Real Estate Educators Association (REEA). She and I served on the Board of Directors as REEA made the transition from one management company to another.

So, it is with fond memories and sad reflections that I say good-bye to Susan Griffel as she leaves the state position. I certainly would welcome her to the ranks of being an instructor if she should choose to move in that direction."

Marie S. Spodek, DREL, GRI
Forest Hills, NY

Governor signs banking bill

House File 2556 is the annual omnibus bill for the Iowa Division of Banking. Included in the legislation are several changes to code chapters administered by the Division designed to address issues that have arisen as the country deals with issues presented by the sub-prime mortgage crises and the resulting credit crunch.

"As Iowans face growing concerns about the national economy, it is imperative that we take steps now to protect Iowa consumers," said Governor Culver. "That is why I am proud to sign these bills today. With these steps, we are once again sending a message that predatory business practices in Iowa will not be tolerated."

Provisions of the bill:

- authorize the administrator to establish education and testing requirements as a prerequisite to individual loan officer registration
- raise the size of the bond mortgage licensees must post from \$50,000 to \$100,000
- mandate that the Division examine mortgage bankers and brokers at least once every two years
- specifically authorize the Division to share information with professional licensing authorities and law enforcement agencies (this will permit the Division to refer evidence of real estate appraisal fraud or criminal wrongdoing to authorities who could pursue those matters)
- modifies the exemptions to the license requirements in 535B to eliminate regulatory gaps inadvertently created by current terminology

For a complete text of the bill or for more information visit the Banking Division's website—www.idob.state.ia.us.

from page 2/Griffel retires

"Susan demanded accountability of all real estate education instructors in the class room as well as out of the class room. Susan was an exceptional leader and portrayed that quality with each of us....demanding no less than excellence. Thank you for your dedication, loyalty and friendship."

Jan DeMott

"In my job as Education Director I always have questions. Susan was always available and always patient. We will miss her guidance and support and I personally will miss her sense of humor. We wish her the best in her new life and endeavors."

Bonnie Hendrickson
Education Director

Iowa City Area Assn of REALTORS®

"Susan was more than the Commission's Education Director, she was my friend. She was also a friend of the entire real estate education community. She analyzed the content of our continuing education curriculum and expanded it to meet the needs of today's real estate agent. She was courageous, talented, and simply the best. In a sometimes by-the-book world, refreshingly, Susan shared with us a common sense approach to reality. To me she was a mentor and I'm going to miss her...a lot!"

Tim Meline

Director, Iowa Real Estate School

"Susan cast a ray of sunshine on every assignment – so happy, smiling, cheerful – no matter what the circumstances. She has much to be proud of during her years of public service with the Real Estate Commission and Real Estate Appraiser Board, but for me two accomplishments stand out: (1) Shortly after the law changed to allow appointed agency in a real estate brokerage Susan created a delightful booklet explaining to clients, customers, and prospective clients the various roles and duties of a broker or salesperson. This little booklet was widely copied for use by real estate brokers and remains an understandable snapshot into a very complex topic. (2) Susan is largely responsible for the Bureau's outstanding quarterly newsletter. Her tireless work in getting the newsletter project off the ground and nurturing its evolution through the years is an important legacy for the Bureau, Bureau staff, licensees, and many other readers across the nation."

Pamela D. Griebel, Assistant Attorney General
(Former Assistant Attorney General to the Real Commission until 2005)

I began working with Susan three years ago when I became the new Education Director at the IAR. I was told she was easy to work with and would be a good resource. I soon found out that she was GREAT to work with and went above and beyond to help me. When I called her I could hear a smile in her voice and I was ALWAYS greeted with a "Hey Missie" which made me feel special. She was professional and yet made the working relationship easy and comfortable. She made me laugh every time I spoke with her or saw her face to face. I miss her already. I know that if we had met outside of a work relationship I would have wanted her as a good friend!

Kimber Davis

Iowa Association of Realtors, Director of Education

Kaizen event proves successful for the Professional Licensing Bureau

by Shari Fett, Bureau Chief

The Professional Licensing Bureau (PLB) participated in a KAIZEN event the week of March 31, 2008–April 4, 2008. The team focused on Real Estate Licensing, Engineering & Land Surveying (Eng & LS) by Examination Process, the Eng & LS Comity Licensing Process and improving communication within the bureau.

The Results are:

| Business Process | Old Process/New Process |
|-----------------------------------|--|
| Real Estate Licensing | Reduced steps by 11% and hand offs by 11%. |
| Eng & LS by Examination Process | Reduced steps by 5%. |
| Eng & LS Comity Licensing Process | Reduced steps by 19% and handoffs by 8%. |
| Bureau | Implemented a communication plan that supports a culture of individual and shared accountability for learning and improvement. |



We would like to thank the following KAIZEN team members pictured above for their participation:

Back Row, Left to Right:

Gleean Coates, PLB
Anthony Babcock, PE, City of Des Moines
Dana Klisares, PLB
Jim O'Neill, Public Member, Real Estate Commission
Jeffrey Terrell, Team Leader
Jim Scott, Time Based Management

Front Row, Left to Right:

Sandy Malek, PLB
Jill Simbro, Sub-Team Leader, PLB
Glenda Loving, PLB
Heidi Patterson, PLB
Jennifer Morrison, PLB
Christy VanBuskirk, PE, Vice-Chair, Eng & LS
Gary Benjamin, PE, Chair, Eng & LS

*Mike Rohlf, Department of Management – not pictured above

*Dave Batts, Jeff Evans, Susan Griffel, Sylvia King, Mary Kay Zaver (PLB)—not pictured above—kept the office running smoothly while the event was taking place

Your participation was an invaluable asset to making our event a success! If you would like additional information on this process, please visit <http://lean.iowa.gov/>.

CONTINUING EDUCATION

Engineering Online Master's Degrees and Non-Credit Opportunities

Spon: Kansas State University, Division of Continuing Education, 245 College Court Building, Manhattan, KS 66506. Contact: Ellen Stauffer, 785-532-5575, informationdce@k-state.edu. Aud: Individuals with bachelor's degrees in engineering, engineers, and other professionals. K-State's College of Engineering and Division of Continuing Education offer master's degrees via distance education in six specialized areas. Conferences and non-credit opportunities are also available for engineers interested in advancing their careers. For more information, visit www.dce.k-state.edu/ engineering or e-mail informationdce@k-state.edu. Fee: varies. Reg by: varies. Contact Hours: varies.

Engineering & Surveying Continuing Education on DVD

Spon: Auburn University Engineering Continuing Education Dept., 217 Ramsay Hall, Auburn, AL 36849. Contact: Wanda Lambert, 334-844-5711. Aud: Professional Engineers & Land Surveyors. Auburn University's Engineering Continuing Education Department offers courses on DVD or web-based instruction for engineers or surveyors to earn CEUs to comply with the requirements of state licensing boards. Categories: Civil Engineering, Land Surveying, Structural Engineering, Electrical Engineering, Ethics and Legal, and Management. Visit our website for the list of courses, descriptions and for ordering online, www.engce.auburn.edu/courses or call 800-446-0382. If you order online you can also take the exam online. Fee: varies. Reg by: NA. Contact Hours: varies.

January 6-8, 2009; Overland Park Convention Center, Overland Park, Kansas

WESTERN Nursery and Landscape Association Annual Meeting and Trade Show. Spon: WESTERN Nursery and Landscape Association, P.O. Box 8860, Saint Joseph, MO 64508. Contact: Sarah Woody Bibens, Executive Director, 888-233-1876 Ext. 701. Fac: Dr. Michael Dirr. Aud: Landscape Architects in 5 state region—MO, KS, NE, IA, OK. Offering Continuing Education with extensive education including Colloquium II with Dr. Michael Dirr, Peter Cummin, MLA, Dr. Jason Griffin and Alan Branham uniting to discuss "Integrating Landscape Design, Plant Selection, Installation and Maintenance . . . The Whole is greater than the Sum of its Parts: The Theory and Practice of Garden-Making." In addition a 500 booth trade show. See www.wnla.org for additional information. Fee: Registration fee + event ticket for Colloquium. Reg by: Pre-Registration or on site registration available.

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ACCOUNTANCY

Iowa Professional Licensing Bureau Newsletter



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Status of the ALD (Accountancy Licensing Database)

With the passage of mobility in Iowa and many other states, Iowa has been a key player in stressing the importance of a National Licensee Database to NASBA; as they already have the ALD (Accountancy Licensee Database) in place with limited state participation. NASBA has responded by creating an ALD Task Force comprised of eight Executive Directors of State Boards across the country. (Heidi Patterson, Executive Director of the Iowa Board of Accountancy is currently serving on this Task Force.) NASBA Leadership is 100% behind the efforts of the ALD and committed to making it a success, understanding its important relationship to an effective transition into mobility across the country. The ALD would allow state boards to go to one central location to check the current status of a CPA or CPA firm from any state; giving them a tool to make regulation more feasible with the wave of mobility passage across the country.

The role of the ALD Task Force will be to facilitate participation in the ALD for all 55 jurisdictions by identifying what their current resistance to participation might be; whether it is legal, technical or political and finding solutions that will allow for their active participation. Task Force members will be discussing the importance of the ALD at each of the regional breakout sessions at both of the NASBA Regional Meetings in June, 2008, stressing that each state's participation is key to the success of the ALD.

There are currently 15 states actively participating and 8 states committed to coming on board. Iowa has committed to participating with the passage of the mobility bill, SF 2379, effective July, 2009, that will allow for state participation in the ALD.

Chair Report

by Ted Lodden, CPA



Lodden

Collaborative efforts produce great results

About a year ago, the Iowa Board of Accountancy and the Iowa Society of CPAs formed a joint task force for the purpose of exploring the possibility of enacting mobility legislation in Iowa. Mobility is a concept fully endorsed by both NASBA and the AICPA. With the AICPA's help, NASBA has proposed model legislation. To date, more

than half of the states have enacted such legislation or have legislation pending.

Several problem areas were identified with the model legislation. First, the model law did not establish clear lines between persons who were licensed and persons who were unlicensed, some of whom would not qualify to practice without Iowa licensure (creating significant jurisdictional issues and conflicts with Iowa law). Second, existing law allows the Auditor of State, Department of Agriculture and other governmental bodies or clients to require Iowa licensure for both individual CPAs and CPA firms; the model law did not expressly address this important area of public protection. Third, the model law purported to allow CPAs who were not licensed in Iowa to represent

themselves as if they were licensed in Iowa—creating many layers of public protection and First Amendment issues. Fourth, NASBA has put forth a license database initiative. The task force believed that the database is important for enforcement of laws and rules for out-of-state CPAs—by providing a centralized, accessible means of verifying licensure. The existing Iowa law would not allow the Board to join the database because the Board could not provide social security numbers, even if encrypted. Fifth, civil penalties for CPA firms were extremely outdated compared to other professions within the state and to other states with regard to CPA firms in those neighboring states. Lastly, the Board felt that peer review should be more transparent in Iowa, as it is in our neighboring states, to foster mobility.

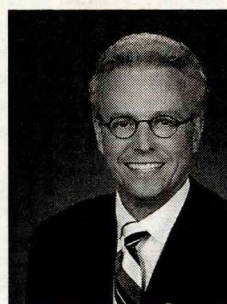
During the many meetings, the task force asked for input from various parties. The Auditor of State and the Department of Agriculture, as well as representatives of the LPAs in Iowa and others were invited to meetings. We also had Ken Bishop (NASBA) and Noel Allen (legal counsel to NASBA) come to Iowa and discuss the issues surrounding mobility with us.

Although very laborious and time consuming; the process was a good one because the Iowa Society and the Iowa Board of Accountancy were able to jointly propose and support Iowa's new Mobility Bill. Senate File 2379 was unanimously passed by the House and Senate and signed into law by Governor Culver on April 18, 2008. This is a great example of a collaborative effort by the Iowa Society and the Iowa Board of Accountancy.

We hope there will be many more opportunities to work together in the future to promote and protect the CPA profession and the public in Iowa.

Vaudt's View—Uniform CPA Examination

by David Vaudt, CPA



Vaudt

Have you ever wondered how a licensing examination like the Uniform CPA Examination (CPA Exam) is developed? All professional licensure testing programs are supported by what is known in the licensure testing arena as a "practice analysis." A practice analysis, in other words, forms the foundation for the CPA Exam.

Data is gathered through a practice analysis to establish the knowledge and skills that are key components of job performance. The data gathered by the practice analyses is then used to develop the set of knowledge and skills that should be measured through examination. The knowledge and skills to be tested in the CPA Exam are set forth in what's referred to in the licensure testing arena as Content Specification Outlines (CSOs) and Skill Specification Outlines (SSOs). That means for the CPA Exam, the CSOs and SSOs are aimed at ensuring an individual who passes the CPA Exam possesses the minimum competency level necessary to protect the public.

As with all professions, the knowledge and skills required of entry-level CPAs changes over time. Therefore, a practice analysis must be conducted periodically to update the CSOs and SSOs. It's the only way to help make certain the knowledge and skills tested by the CPA Exam

are relevant to job performance today. Periodic practice analyses also provide the support needed by licensing boards, such as the Iowa Accountancy Examining Board, to legally defend the CPA Exam as a valid licensure measure.

The most recent CPA Exam practice analysis was completed in 2008. This 2008 practice analysis was then used to revise the CSOs and SSOs utilized to develop the CPA Exam. As a result, on May 1, 2008 the AICPA issued an Exposure Draft, *Proposed Content and Skill Specifications for the Uniform CPA Examination*. This Exposure Draft provides an opportunity for you to express your views about the new content and skills specifications for the future CPA Exam. Specifically, the AICPA is looking for your input on the following: (1) Are there any major areas of content that are not included in the CSOs that should be included? (2) Are there any major areas of skill that are not included in the SSOs that should be included? (3) Are there any major areas of content in the CSOs that should not be included? (4) Are there any major areas of skill in the SSOs that should not be included? (5) Do the content and skill specification outlines, taken as a whole, cover the knowledge and skills necessary for entry-level CPAs to protect the public interest?

You can access the Exposure Draft and Exposure Draft Comment Form at www.cpa-exam.org/cpa/exposure_draft.html. Take advantage of this opportunity to provide your feedback on the Exposure Draft. By utilizing your professional experience and providing feedback, you will assist in the ever important task of maintaining a relevant, valid and legally defensible CPA Exam. The comment deadline is July 31, 2008.

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Senate file 2379 passes in Iowa

Iowa law governing the practice of public accounting will change as of July 1, 2009. Senate File 2379, signed by Governor Culver on April 18, 2008, amends Iowa Code chapter 542 in the following ways:

1. **Temporary practice privilege:** Out-of-state CPAs and CPA firms will be granted a temporary practice privilege to practice public accounting in Iowa under narrowly drawn circumstances. To qualify, an out-of-state CPA or CPA firm must hold a valid, unexpired license in good standing in the state of its principal place of business which is substantially equivalent to Iowa licensure standards, and must be lawfully authorized to practice in its principal place of business all public accounting services offered or rendered under a practice privilege in Iowa. Such persons or firms may not make any representation tending to falsely indicate licensure in Iowa. Upon a client's request, such persons or firms must provide accurate information on the state or states of licensure, principal place of business, contact information, and the manner in which licensure status can be verified. Additional disclosures must be made to the Board upon request. Through rulemaking the Board will preclude out-of-state CPAs or CPA firms from acting under a practice privilege if they have a criminal or disciplinary history, or have been denied Iowa licensure in the past. Significantly, attest services, such as audits or reviews, must be performed through a CPA firm that is licensed in Iowa. Further, the Auditor of State, Department of Agriculture, and other governmental bodies or clients may always require Iowa licensure for both individual CPAs and CPA firms. Finally, CPA firms using the title "CPAs," "CPA firm," or "certified public accountants" at Iowa office locations must be licensed in Iowa.

The Board encourages CPAs and CPA firms to carefully review SF 2379 and to watch for Q & A's on the Board's website to assure this narrow practice privilege is not abused. The Board will be working on a series of rules to further guide out-of-state CPAs or CPA firms that may wish to practice under a practice privilege. The rules will address, for example, the manner in which currently licensed out-of-state CPAs or CPA firms (including those holding lapsed Iowa licenses) may be able to relinquish an Iowa license in order to practice under a practice privilege. The Board will attempt to coordinate with neighboring states to make this transition as user-friendly as possible. Some neighboring states already grant temporary practice privileges to Iowa CPAs and CPA firms.

2. **Civil penalties:** Civil penalties against CPA or LPA firms or unlicensed entities operating in violation of Iowa law will increase from \$1,000 per violation to \$10,000 per violation.

3. **Social security numbers:** The Board will be authorized to share licensee social security numbers with the National Association of State Boards of Accountancy (NASBA) on a confidential basis to facilitate the Board's participation in a national data bank of CPAs and CPA firms. This is a critical step in monitoring compliance with mobility legislation, and providing the Board and the public an accessible means to verify licensure.

4. **Peer review:** Iowa CPAs, CPA firms and LPA firms that are subject to peer review will be authorized to voluntarily provide the Board copies of peer review records. Organizations that administer peer review programs (such as the AICPA) will be authorized to implement a program in which licensees can "opt in or opt out" of a process in which the administering entity will share certain peer review records with state boards. Peer review records, even when provided to the Board, will remain confidential.

5. **Updating SF 2379** makes a number of discrete changes to update and "clean up" various Code provisions, such as adding PCAOB actions to the list of possible grounds for discipline and deleting a reference to multi-year renewals to pave the way for an annual renewal cycle in the future. Currently firms renew annually, but individual CPAs and LPAs renew biennially. The Board plans to switch to an annual renewal cycle for ease of compliance effective with the new law change July 1, 2009. The advent of the electronic renewal process will now make this possible.

DISCIPLINARY ACTIONS

07-41

DONALD C. LOWER
Bettendorf, Iowa

CPA #005525

Violation: The Board charges Respondent with practicing public accounting on a lapsed certificate in violation of Iowa Code sections 272C.10(3), and 542.10(1)(c), (d) and (j); and 193A Iowa Administrative Code 5.5(2).

Sanction: Respondent voluntarily entered a Consent Order with the Board and agreed to the following:

- Respondent is reprimanded for practicing public accounting on a lapsed certificate.
- Respondent shall pay a civil penalty of \$750.00 within 30 days from date the order is signed by both parties (5/1/08).
- Respondent shall notify all clients for whom he provided services while using the "CPA" title while he was not properly certified, August 1, 2005, until the date his certificate was reinstated, September 24, 2007.

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sylvia.king@iowa.gov

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Advisory Opinion 31



Selberg

In the 2008 USPAP update there is a new advisory opinion AO-31.

Advisory opinions are **not** meant to establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

A portion of AO -31 deals with "Assignments involving more than one appraiser." The question or issue is: What are the USPAP obligations when an appraisal, appraisal review or an appraisal consulting assignment involves more than one appraiser?

In the real world of appraising this could include the following scenarios;

- 1) A "trainee" requiring supervision and direction by an appraiser already fully qualified to complete this type of assignment.
- 2) Two or more appraisers working on an assignment as equals.
- 3) Two or more appraisers from different appraisal disciplines working on an assignment.
- 4) A staff appraiser who is being reviewed by a more senior appraiser.
- 5) An independent appraiser/contractor performing work for an appraisal firm.

Again the question becomes "what is the proper way to deal with USPAP requirements relating to record keeping, signatures and certifications?"

AO-31 reminds us that USPAP does not define the term "appraiser" in the context of licensure or certification, rather an appraiser is defined as "one who is expected to perform valuation services competently and in a manner that is INDEPENDENT, IMPARTIAL, and OBJECTIVE. It should be noted that in each jurisdiction the applicable state law should be consulted for a specific definition.

Where do we look in USPAP to help define and solve the specific obligations?

First, let's look at the Scope of Work Rule, then specifically the Scope of Work Acceptability and then Disclosure Obligations.

The scope of work acceptability state: The scope of work must include the research and analyses that are necessary to develop credible assignments results. The comment

added indicates that the work is acceptable when it meets or exceeds;

- The expectations of the parties who are regularly intended users for similar assignments and
- What an appraiser's peer's actions would be in performing the same or similar assignments?

Next, the Ethics Rule, specifically Record Keeping.

Record Keeping section of the Ethics Rule requires an appraiser prepare a work file for each appraisal, appraisal review, or appraisal consulting assignment.

When an assignment is performed by more than one appraiser, each appraiser is subject to the same obligations regarding the work file for the assignment, whether or not the appraiser signs the certification. To meet this obligation an appraiser may copy the entire work file or have access to it.

Standard Rule 2; Real Property Appraisal Reporting

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

SR-2 is all about how we communicate our analysis and opinions. SR-2 labels the level and extent of information in reports—ie. Self Contained Summary Report and Restricted Use Appraisal Report.

After documenting all the above information from USPAP it is interesting to delve further into SR2-2 a (vii) b (vii) and c (vii).

This part of USPAP advises appraisers to:

"Describe the scope of work used to develop the appraisal."

The comment from USPAP advises that the intended user *relies* on our scope of work, thus the report must not mislead and the intended user must be properly informed. There must be sufficient information that discloses our research and analyses, AND the research and analysis NOT performed.

It goes on to advise us that when any portion of the work involves significant real property appraisal assistance, the appraiser *must describe the extent of that assistance. The signing appraiser must also state the names of those providing the significant real property appraisal assistance.*

I've highlighted the comment above, because, at a recent conference of State Investigators and Reviewers the question of "real property appraisal assistance" was a hot topic.

The questions—all were about "what dictates "significant appraisal assistance." Below were some of the questions posed on residential appraisals.

When completing a residential appraisal, if an office assistant is researching the comps, is this "significant appraisal assistance?"

What if I'm not subscribing to the local MLS and I have another office (appraisal or real estate) research the comps?

What if I give the other office the parameters and they furnish the comps?

What if I research the information at the local office?

The consensus of the group indicates that when the actual research is not being completed by the signing appraiser, a disclosure to the intended user must be included in the certifications. This disclosure must include who did the research and the parameters of the research. Many investigators felt that just giving the parameters to some one else indicates the signing appraiser could only consider comparables that were returned to them, the appraiser could not consider all information. Remember SR 2-2 says the appraiser must advise the intended user, WHAT WAS NOT PERFORMED. The intended user must be advised that the certifications have changed and this should be documented to augment the certifications being signed.

Most of these questions can be answered with Geographical Competence. It seems everyone (except the appraiser) in the above scenarios has MLS and it is readily available in the area. It was the appraisers choice to not subscribe, thus the appraiser lacked Competence.

It was a cautionary conference and discussion on the issues that are plaguing our industry and the extent of documenting and disclosure to our intended users. This, of course, is the backbone of USPAP, to PROMOTE PUBLIC TRUST.

Terri Selberg

President

National AQB Instructor

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515.254.2989

Important reminder for appraisers whose last name ends in L-Z

As a condition of renewal, **all persons renewing to active status** must complete a 7-hour report writing course. Here's a breakdown of what will be required to renew:

1. 7-hour USPAP update course
2. 7-hour course in report writing
3. 14 hours in appraiser-related courses

All courses must be taken by a provider approved by the Iowa Appraiser Board, the Appraiser Qualifications Board, or another state's appraiser licensing board. It is **your** responsibility to maintain course completion certificates and provide them upon request by the Board. There are many other requirements and restrictions—for detailed information, refer to Chapter 11 of the Board's administrative rule 193F. You can find and print the rules by going to www.state.ia.us/iapp, then click on the "Chapter 193F" link under the section entitled "Administrative Rules" in the shaded area on the left side of the web page.

The time period for continuing education for 2009 is from July 1, 2007 through June 30, 2009. Residents of states other than Iowa **must** comply with Iowa's requirement and time restrictions, regardless of the time period of any other state.

For example, let's say Joe Williams is a resident of Nebraska and also holds an Iowa license. Joe renews his Nebraska license in December 2008, and the time period for his continuing education is December 1, 2006

through December 31, 2008. Joe will have to report 28 hours to Nebraska for this time period; however, since his license in Iowa renews six months later, he'll need to make sure any classes conform to Iowa's time period for continuing education (see paragraph above), or he may have to take additional education. Iowa won't grant an extension to Joe based on his Nebraska license or Nebraska's reporting period.

Short of recall to active military duty, there are **no** waiver provisions for continuing education. Plan now, start early, and make sure you have all the required courses within the scheduled time period.

As a reminder, a maximum of 14 of the 28 required hours may be by distance education, which is defined as "the geographical separation of instructor and learner." Examples of distance education include CD-ROM, on-line learning, correspondence courses, video conferencing, etc.

Also, persons holding more than one professional license (i.e. real estate salesperson, real estate broker, etc.) can **not** "double-dip" and use hours as continuing education for both licenses unless the courses are approved by the Appraiser Board. Your best bet is to read and understand the rules as they apply to each professional license.

Questions? Call Jennifer Morrison, Licensing Specialist, at 515-281-4126 or contact her via e-mail at jennifer.morrison@iowa.gov

Important rule changes

The following administrative rule changes became effective May 28, 2008:

Chapter 10-Reciprocity

What Changed: Demonstrating Good Standing in Another State When Applying for Certification by Reciprocity

10.1(2) The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov.

What Changed: Determining Competency via Work Product Review When Applying for Certification by Reciprocity

10.1(5) The board may, at its discretion, request work product from an applicant for certification by reciprocity for good cause shown, such as an applicant's having a prior history in Iowa that includes a disciplinary investigation or disciplinary action. If work product is requested, the appraiser shall be subject to the process as required in

193F—subrule 3.5(2) and shall pay the appropriate fee as required in 193F—12.1 (543D).

What Changed: Demonstrating Good Standing in Another State and New Fee Requirements for Temporary Practice Privileges

10.2(2) The appraiser must register with the board and identify the property(ies) to be appraised, the name and address of the client and the estimated length of time the appraiser will be in the state. The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov. Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. The appraiser shall pay the appropriate fee as required in 193F—12.1 (543D).

Chapter 12—Fees

What Changed: Fees for the 2008 Examination, Work Product Review and Temporary Practice Privilege

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

| | |
|---|------------------|
| Initial examination application fee | \$100 |
| Examination fee (and reexamination fee) | \$145 |
| Biennial registration fee for active status: | |
| Certified general real property appraiser | \$360 |
| Certified residential real property appraiser | \$360 |
| Associate real property appraiser | \$250 |
| Biennial registration fee for inactive status: | |
| Certified general real property appraiser | \$100 |
| Certified residential real property appraiser | \$100 |
| Associate real property appraiser | \$50 |
| Temporary practice fee (each request) | \$150 |
| Reciprocal application fee (one time only) | \$50 |
| Reciprocal registration fee (biennial) | \$360 |
| Fee to reinstate a lapsed license (plus the registration fee) | \$150 |
| Fee to reinstate an inactive license to active status | \$50 |
| Reissuance or replacement of a lost, destroyed, or stolen certificate or registration | \$50 |
| Work product review fees: | |
| Original submission, certified residential | \$300 |
| Original submission, certified general | \$650 |
| Additional residential reports as requested by the board | \$150 per report |
| Additional nonresidential reports as requested by the board | \$250 per report |

Assessing the Appraiser

by Amy Thorne, Vice Chair, Iowa Real Estate Appraiser Examining Board

Having only worked on the assessment side of appraisal, it has been my view, (right or wrong) that the assessor is viewed as the 'kid brother' of the appraisal profession. It has never been more apparent to me than in the last year that we are all in this together! We need to work as a team to ensure the highest quality service and product as the entire appraisal profession is under more scrutiny. If we work together, we all produce more credible work product.

If you see information on the property record card that is not correct, please notify your local Assessor's Office. We make every effort to get inside property, but the reality is it isn't always possible. But as a fee appraiser, to complete a USPAP-compliant 1004, you must get inside the home. Your interior inspection may make your information more reliable than what is public record. The irony is that when doing an inspection, you hear all about the wonderful things done to improve a property; but if you are the assessor, you hear all about the negative aspects of the property.

In Polk County, we obtain our information 3 ways: 1. **Building permit**—When a building permit is issued from a jurisdiction, they send a copy of the permit to our office and we send an appraiser out to check the work being completed, list it and add value for it (if applicable). 2. **Revaluation**—Our office-wide goal is to physically canvass the entire county on a rotating basis every six years. We check our records, make sure our information is correct, and update it accordingly. So, if a building permit is not taken out on a property, it may be 5 years before we do a revaluation in the area and are able to garner the updated information. A lot can happen in 5 years. 3. **Public Notification**—The power of the internet has helped our office. By having property information easily accessible, we are able to get information from a property owner or any interested party indicating the property has changed or is not correct. Anyone can go to our website and review the property record information. We gather a lot of information from people who tell us our records are not correct based upon what they know about a property.

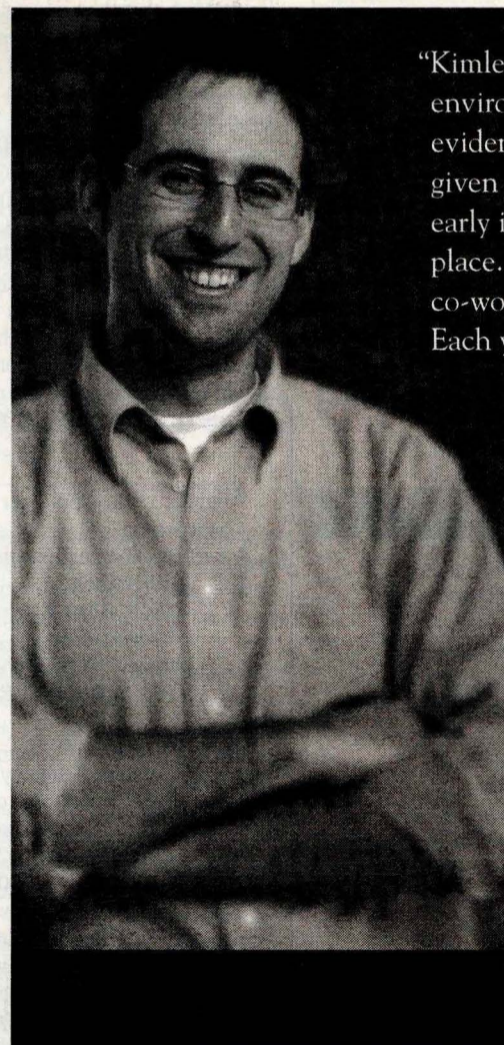
Keep in mind, this is still mass appraisal. We primarily use statistical analysis to arrive at values. We do not look at every property every year. I have seen many sales listings that tout property characteristics that aren't listed on the Assessor's card. That's great if you are trying to sell a property, but what about when you are trying to put a fair and equitable value on a property for tax purposes? Shouldn't we all try to help one another and ensure that we are all creating the best product we can? If you see a listing and you know it is incorrect, let us know! Call your local Assessor's Office and tell them how you think the property should be listed and why.

I often hear from people who think assessed values are in some way not market value. **NOT TRUE!** Iowa Code Section 441.21(b) states:

"The actual value of all property subject to assessment and taxation shall be the fair and reasonable market value of such property except as otherwise provided in this section. "Market value" is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value. In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit."

Herein lays the problem: We only reassess every 2 years (on the odd year). We don't set the market we follow it. In years when the market is going fast and furious we are always playing catch up. Which is why one may think the assessed value is not market value. Now we have come full circle. We want to be sure our information is correct. As the saying goes . . . **JUNK IN, JUNK OUT.** If we don't have reliable data to work with, we can't produce reliable results. We want you to be able to count on our data so you can do the best job possible.

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**Before the Real Estate Appraiser
Examining Board of the State of Iowa**

IN THE MATTER OF:) CASE NO. 07-50
) DIA NO.
) 08DOCRE001
 BILL BRYSON)
 CERTIFICATE NO.)
 CR02232) FINDINGS OF FACT,
) CONCLUSIONS OF
) LAW, DECISION
 RESPONDENT) AND ORDER

On January 8, 2008, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Bill Bryson (Respondent). The Statement of Charges alleged:

The Respondent failed to comply with an order from Case 06-25 by not completing the education as mandated by the consent order (15-hour USPAP, 30 hours in the three approaches to value and 7 hours of report writing by October 1, 2007, with verification provided to the Board within 10 calendar days of completion); failing to submit all logs by the 10th day of each month while on probation; and failing to submit 4 of the 6 appraisals required for review in violation of Iowa Code section 272C.3(2)(a).

The hearing was held before the Board on March 26, 2008 at 9:00 a.m. The Respondent did not appear and was not represented by counsel. Pam Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Michael Lara, Appraiser, Chairperson; Greg Morehead, Appraiser; James Kesterson, Appraiser; Judy Zwanziger, Appraiser; and Amy Thorne, Appraiser. Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2007) and 193 IAC 7.25(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)(2007) to deliberate its decision. The Board instructed the administrative law judge to prepare these Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the State's Prehearing Conference Report, the testimony of the witness, and State Exhibits 1-16 and the Respondent's email from March 26, 2008.

FINDINGS OF FACT

1. On March 15, 2001, the Respondent was issued Certificate No. CR02232 to practice as a certified residential real estate appraiser in the state of Iowa. The Respondent's certificate is currently in good standing and is scheduled to expire on June 30, 2008. (State Exhibit 1)
2. The Respondent signed a Consent Order on May 13, 2007. The Consent Order imposed discipline on the

Respondent. The Respondent was required to complete educational hours (15 hours of USPAP, 30 hours in the three approaches to value and 7 hours of report writing) by October 1, 2007; he was to submit all logs by the 10th day of each month while on probation; and he was required to submit 4 of the 6 appraisals required for review. (State Exhibit 2)

3. The Respondent failed to send verification that he completed the required educational hours. The Respondent failed to provide all of the required logs by the 10th day of each month. The Respondent had not sent in a log since September 2007. The Respondent also failed to provide 4 of the 6 appraisals required for review. (Exhibit 1, testimony of Sylvia King).

CONCLUSIONS OF LAW

Failure to Appear

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of a party. 193 IAC 7.27(1).

The Respondent was personally served with the Statement of Charges and Notice of Hearing on January 21, 2008 in accordance with 193 IAC 7.6(2). The Respondent was properly served but failed to appear. The Board was authorized to proceed with the hearing.

Iowa law proves that the Board may "revoke a license . . . upon failure of the licensee to comply with a decision of the board imposing licensee discipline." Iowa Code § 272C.3(2)(a).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(a) when he failed to comply with the terms of the Consent Order he signed on May 13, 2007.

DECISION AND ORDER

The Respondent's actions in failing to abide by the terms of the Consent Order he signed warrant revocation of his certificate.

IT IS THEREFORE ORDERED that Iowa Real Estate Appraiser Certificate No. CR02232, issued to Bill Bryson, is hereby **REVOKED**, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that before any application for reinstatement is granted, the Respondent will be required to establish that the reason for the revocation no longer exists and it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

IT IS FURTHER ORDERED that the Respondent shall notify all clients of the fact that his certification has been revoked within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.
 Dated this day of May, 2008.

Michael Lara, Appraiser
 Chairperson
 Iowa Real Estate Appraiser Examining Board
 Cc: Bill Bryson
 206 E. Shaw St.
 PO BOX 516
 Russell IA 50238
 (PERSONAL SERVICE)

Pam Griebel
 Assistant Attorney General
 Iowa Department of Justice
 Administrative Law Division
 Hoover Building, 2nd Floor
 Des Moines, IA 50319

This decision becomes final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties. A motion to vacate shall state all facts relied upon by the moving party that establishes that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit or a person with personal knowledge of each such fact attached to the motion. 193 IAC 7.27(3).

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.

**Before the Real Estate Appraiser
Examining Board of the State of Iowa**

IN THE MATTER OF:) CASE NO. 08-03
) DIA NO.
) 08DOCRE002
 CRAIG JACOBSON)
 CERTIFICATE NO.)
 CR02461) FINDINGS OF FACT,
) CONCLUSIONS OF
) LAW, DECISION
 RESPONDENT) AND ORDER

On February 12, 2008, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Craig Jacobson (Respondent). The Statement of Charges alleged:

Count I: Respondent failed to comply with the order for Case 06-71 (DIA Number 07DOCRE013).

The hearing was held before the Board on March 26, 2008 at 11:00 a.m. The Respondent did not appear and was not represented by counsel. Pam Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Mike Lara, Appraiser, Chairperson; Greg Morehead, Appraiser; James Kesterson, Appraiser; Judy Zwanziger, Appraiser; and Amy Thorne, Appraiser. Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2007) and 193 IAC 7.25(2). After hearing the professional statement made by the Assistant Attorney General and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2007) to deliberate its decision. The Board instructed the administrative law judge to prepare these Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the State's Prehearing Conference Report, State Exhibits 1-3, and the Respondent's email of March 26, 2008.

FINDINGS OF FACT

1. On October 11, 2004, the Respondent was issued Certificate No. CR02461 to practice as a certified residential real estate appraiser in the state of Iowa. The Respondent's certificate is currently in good standing and is scheduled to expire on June 30, 2008. (State Exhibit 3)
2. The Board issued a disciplinary order following a contested case on December 19, 2007. The Respondent received the order on December 26, 2007. (State Exhibit 1).
3. The order required the Respondent to pay the hearing fee of \$75 within 30 days of December 26, 2007, or January 25, 2008. Respondent paid the hearing fee, although a few days late. (State Exhibits 1, 2).
4. The order required the Respondent to enter into a desk review consultation agreement with a pre-approved desk reviewer within 30 days of the issuance of the order on December 19, 2007, or January 18, 2008. (State Exhibit 1).
5. The Respondent failed to submit the name of a desk reviewer to the Board. He has also failed to provide a copy of his desk review agreement as required by the order. (State Exhibit 1).
6. On February 12, 2008, the Board charged the Respondent with failure to comply with the Board's December 19, 2007 order. (State Exhibit 3).
7. The Respondent sent an email to the Board on March 26, 2008, the morning of the hearing. The Respondent wrote, "In reference to the hearing scheduled for March 26, 2008, I will not be attending. I would like to surrender my Iowa license as I can not get the required education done in the near future this way I can decline work instead of telling clients that I am in limbo trying to get a review appraiser. . ." (Exhibit A)

CONCLUSIONS OF LAW

Failure to Appear

If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of a party. 193 IAC 7.27(1).

The Respondent was personally served with the Statement of Charges and Notice of Hearing on February

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16, 2008, in accordance with 193 IAC 7.6(2). The Respondent was properly served but failed to appear. The Board was authorized to proceed with the hearing.

The preponderance of the evidence established that the Respondent failed to comply with the order for Case 06-71 (DIA Number 07DOCRE013) by failing to enter into a contract with a desk reviewer within 30 days of the signed agreement (signed December 19, 2007, with a copy due to the Board by January 18, 2008) or provide said contract to the Board to enable the enforcement of the required desk review of all reports.

The Board accepts the Respondent's voluntary surrender of his certificate.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Iowa Real Estate Appraiser Certificate No. CR02461, issued to Craig A. Jacobson, is hereby **SURRENDERED**, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that if the Respondent wishes to gain certification again, the Respondent will be required to redo all of the education, examination, and experience requirements required for initial licensure under the current requirements. The required education, examination, and experience must be completed following the issuance of this Decision and Order and prior to filing an application for reinstatement.

The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

IT IS FURTHER ORDERED that the Respondent shall notify all clients of the fact that his certification has been surrendered within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.

Dated this day of May, 2008.

Michael Lara, Appraiser
Chairperson

Iowa Real Estate Appraiser Examining Board

Cc: Craig A. Jacobson
601 East Railroad Lane
PO Box 250
LeRoy, MN 55951-0250
(PERSONAL SERVICE)

Pam Griebel
Assistant Attorney General
Iowa Department of Justice
Administrative Law Division
Hoover Building, 2nd Floor
Des Moines, IA 50319

This decision becomes final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties. A motion to vacate shall state all facts relied upon by the moving party that establishes that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit or a person with personal knowledge of each such fact attached to the motion. 193 IAC 7.27(3).

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.

Before the Real Estate Appraiser Examining Board of the State of Iowa

IN THE MATTER OF:) CASE NO. 06-65
) DIA NO.
) 07DOCRE012
BYRON WITT)
CERTIFICATE NO.)
CG01022) DECISION
)
RESPONDENT.)

On August 7, 2007, the Iowa Real Estate Appraiser Examining Board (Board) found probable cause to file a Statement of Charges against Byron Witt (Respondent). The Statement of Charges alleged two counts:

Count I: Respondent was charged with repeatedly failing to adhere to appraisal standards, including but not limited to the ethics and competence rules of the Uniform Standards of Professional Appraisal Practice (USPAP), in the development, preparation, and communication of multiple appraisals; failure to exercise reasonable diligence in the development, preparation, and communication of multiple appraisals; negligence or incompetence in the development, preparation, and communication of multiple appraisals; including but not limited to inadequate supervision of an unregistered appraiser over a broad geographic range, and improper advocacy, in violation of Iowa Code section 272C.10(3), 543D.17(1)(d),(e) and (f) and 543D.18.(1),(2)(2005) and 193F IAC 7.1, 7.2(2),(5) and (8).

Count II: Respondent engaged in practices harmful or detrimental to the public and repeatedly demonstrated, through lack of education, negligence, carelessness or omissions, or intentional acts, a lack of qualifications to assure the public a high standard of professional care in violation of Iowa Code section 272C.3(2)(b) and 272C.10(3).

The hearing was held before the Board on January 9, 2008 at 9:00 a.m. The Respondent participated in the hearing and was represented by Attorney John Werner. Pam Griebel, Assistant Attorney General, represented the state of Iowa. The following Board members presided at the hearing: Michael Lara, Chair, Appraiser; Amy Thorne, Appraiser; Judy Zwanziger, Appraiser; James Kesterson, Appraiser; and Greg Morehead, Appraiser. Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings.

The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2005) and 193 IAC 7.25(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)(2005) to deliberate its decision. The Board instructed the administrative law judge to prepare these Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the State's Pre-hearing Conference Report, the testimony of the witnesses, and State Exhibits 1-29 and Respondent's Exhibits A-C.

FINDINGS OF FACT

- In 1991, the Respondent was issued Certificate No. CG01022 to practice as a certified general residential real estate appraiser in the state of Iowa. The Respondent's certificate is currently valid and is scheduled to expire on June 30, 2009.
- On September 25, 2007, the Board charged the Respondent with repeatedly failing to adhere to appraisal standards in the development and communication of appraisals; failure to exercise reasonable diligence in the development, preparation and communication of appraisals; and demonstrating negligence or incompetence in the development, preparation and communication of appraisals; and practices harmful or detrimental to the public and repeatedly demonstrating, through lack of education, negligence, carelessness or omissions, or intentional acts, a lack of qualifications to assure the public a high standard of professional care in violation of Iowa Code sections 543D.17(1)(d), (e) and (f); 543D.18(1); and 272C.3(2)(b)(2005), and 193F IAC 7.2.
- In August of 2006, the Board received a complaint alleging that an appraisal report signed by the Respondent's employee, Ed Hill, failed to comply with applicable appraisal standards. The Board also received an additional appraisal to review because it was the subject of a review received by the Board. The Board submitted appraisals to a Standard Three USPAP review that revealed significant violations of USPAP standards. The Board requested a log

and selected additional appraisals for review. The Standard Three reviews of the additional appraisals also revealed USPAP violations.

- The first property in question is located at 1311 Ure Street, Des Moines, Iowa. The appraisal was signed by Ed Hill, trainee, and the Respondent was the supervisory appraiser. The appraisal reported a value of \$75,000.

Appraiser Shawna Neal did a desk review of the Ure Street property. The desk review found numerous problems with the appraisal that evidenced a total disregard for USPAP requirements. The appraiser's description of the neighborhood was Polk County and omitted the fact that Interstate 235 is very close to the property. The neighborhood description was generally unhelpful, and the failure to properly address the close interstate was a problem.

Problems were also noted with the zoning listed, the home's features listed, no justification for site value and nearby comparable sales were ignored and farther away sales were used.

The appraisal was listed as unacceptable and the market value estimates were not sufficiently supported and the subject property description was not accurate and/or complete. The appraisal was deemed unacceptable because:

- lack of details about the neighborhood and the home itself;
- all sales are near a mile away, in a superior area;
- the sales are mostly unverifiable and Comparable #1 appears to be in superior condition;
- there were more comparable homes in the area; and
- the appraisal does not discuss functional issues with three bedrooms or impact of I-235.

The desk appraiser appraised the Ure Street property at \$57,000. (Ex. 4).

The Board requested that the Respondent forward a copy of the appraisal, as presented to the client, as well as a complete copy of the work file. The Respondent provided the requested information. In the Appraisal Request from Essential Mortgage the owner's estimate of the value of the home was listed at 75k (\$75,000). In the Comments section the mortgage company wrote 75k (\$75,000).

Teresa Selberg conducted a Peer Review of the Ure Street property. She too found numerous problems with the appraisal. Ms. Selberg noted that:

- Appraiser does not give a neighborhood description other than "entire Polk county." This is atypical and incorrect, as it does not define a market area. It appears that the appraiser is not geographically competent.
- Zoning is incorrect. Subject is impacted by I-235 and resulting road noise. Appraiser does not note this and claims the property view is "residential" obviously misleading the reader.
- Appraiser details a partial basement and it is only 60sf. Appraiser does not disclose that the property was on contract to the borrower and whom the contract holder was at the time of the appraisal. He incorrectly states the borrower is titleholder. Appraisal advises the property has had a "complete remodel" yet does not describe this remodeling to allow the reader to understand what "complete" means. Appraiser lists the driveway as gravel in his notes/workfile, yet on the report he has it as concrete.
- Appraiser appears to use inflated figures for the subject's cost information. Site value is above recent sales. Appraiser does not include the subject's external depreciation (I-235). Appraiser advises the property's effective age is 10 years, this is very atypical for a 108 year old home. He also is using a depreciation based on a 50 year life, this is also atypical methodology.
- Appraiser selects comparables that were outside the subject's neighborhood, and they do NOT reflect the subject's external obsolescence (I-235) road noise. According to the local MLS there were approximately 38 sales that were in the same neighborhood and three comps that had I-235 road noise.
- The appraiser submitted his work file and in this file the appraisal requests has two notes that the value should be \$75,000. Which is what the final opinion of value is, it appears the value was given first and he chose comps to attain the value.
- Appraiser does not use similar sales as the subject and it appears was purposely trying to mislead the reader by not disclosing the external obsolescence. He intentionally did not use sales in the subject's neighborhood, or obviously he

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is geographically incompetent. (Ex. 6, Selberg testimony).

5. The next appraisal reviewed was for property located at 2224 Dean Avenue, Des Moines, Iowa. The appraisal was performed by Edward Hill under the supervision of the Respondent.

Ms. Selberg was asked to perform a Peer Review of the Dean Avenue property. Ms. Selberg found the following deficiencies:

- Neither the appraiser or supervisory appraiser lists contact information on the signed certification. This is atypical.
- Appraiser does not give a neighborhood description other than the "entire Polk county." This is atypical and incorrect, as it does not define a market area. It appears the appraiser is not geographically competent.
- Zoning is incorrect. Subject overlooks commercial property, railroads etc. Appraiser does not note this and claims the property view is "residential" obviously misleading the reader.
- There were pictures of deterioration of the subject's wood siding, dry rot and peeling paint. This would cause to give the subject a below average rating, assessor information also states it is below normal. The appraiser however states it is in overall GOOD condition. This is misleading. Appraiser advises there is a full basement and then uses a partial figure on the cost approach. Appraiser advises there is a garage and there is not. Appraiser lists only a patio on the grid and there is also an enclosed porch. Appraiser does not disclose that the property was on contract to the borrower and whom the contract holder was at the time of the appraisal. He incorrectly states the borrower is titleholder.
- Appraiser appears to use inflated figures for the subject's cost information. Site value is above recent sales. Appraiser does not include the subject's external depreciation (commercial view).
- Appraiser selects comparables that were outside the subject's neighborhood, and do NOT reflect the subject's commercial influence, or inferior condition. According to the local MLS there were approximately 15 sales there were in the same neighborhood. There was also a sale on Dean Ave that would have been available to the appraiser to better reflect the external depreciation.
- Appraiser does not use similar sales as the subject and it appears was purposely trying to mislead the reader by not disclosing the external obsolescence and the condition of the property. He intentionally did not use sales in the subject's neighborhood, or obviously he is geographically incompetent.

Ms. Selberg then received another work file and appraisal for the Dean Avenue property that was slightly different from the initial appraisal. This appraisal indicated it was for a sale, whereas the original appraisal indicated it was for a refinance. (Ex. 10, 12, Selberg testimony)

6. The Board then requested that the Respondent provide a log of the Respondent's appraisals over the prior six months. The Respondent provided the log and the Board picked four properties that were appraised by the Respondent alone. These properties were:

- a. 106 Park Lane, Newton, Iowa.
- b. 3305 Garwin Road, Marshalltown, Iowa.
- c. 7 South Ninth Street, Marshalltown, Iowa.
- d. 1201 State Street, Tama, Iowa. (Ex. 16).

Ms. Selberg then conducted a Peer Review of the four selected properties.

7. Ms. Selberg's review of the 106 Park Lane, Newton, Iowa, property found the following deficiencies:

- Appraiser can not comment on listing/sales current sales in the subject's market as he does not subscribe to the local MLS, this is atypical methodology. He does not disclose this to the reader which is misleading. He does not fill the information in on the form and leaves it blank.
- Appraiser is appraising in Newton, IA that has had a huge layoff from Maytag Corp., he doesn't mention this and it's impact on the economy.
- Appraiser lists the zoning as "conforming" this is not a zoning. Appraiser lists the subject as Newton, assessors has its address as Lambs Grove.
- Appraiser does not include the subject's sale of 6/29/04, 4/20/05/ 1/27/06, 1/27/06. He does not discuss these transfers, including the fact that they were contracts and not arms length

and it appears there were non-standard market arrangements.

- Appraiser includes the subject functional obsolescence with no explanation. As is value of site improvements are not cost figures, \$5,000 is rather high for a gravel driveway. Cost approach appears to make it cheaper to build home rather than buy it, this is atypical methodology.
 - Appraiser selects comparables that appear to be the best available, yet in researching properties on the assessor's site, there were comps (10) that had sold within the last 6 months that would better reflect the market information. Assessors valuing of sites appears to need adjustments on C-2 & 3 he gives a blanket adjustment under location, with no explanation. Between the appraisers other reports under review, he is not consistent with his adjustments (noticeable on bath values and fireplace). Two of the comps he chose were at the top value of sales in Newton, with other sales (10) that appeared more similar to the subject.
 - The appraiser's lack of access to the local MLS misleads the reader as to his statements on the listing etc of the property. Appraiser doesn't analyze previous purchase. Assessor information appears to NOT support his value. Appraiser DOES NOT advise the reader about the market conditions in Newton, layoffs, etc.
 - Appraiser does not understand the appraisal process, appears to select comps without doing any market research. Does not use a matched pair analysis to determine adjustment values. Misleads reader by not including his lack of using local MLS information. (Ex. 18, Selberg testimony).
8. Ms. Selberg next submitted a Peer Review of the property at 3305 Garwin Road, Marshalltown, Iowa. The review found the following deficiencies:
 - Appraiser gives a neighborhood description as Marshall County. This is atypical and incorrect, as it is he draws comps from several counties. This is a very unique property and it appears the appraiser does need to enlarge his area, and he did limit his search to nearby or convenient comps.
 - Appraiser furnished the work file, assessor's information. The property is a duplex and appears to be configured as a duplex according to appraiser notes and assessor information. He does indicate in the appraisal that there maybe functional obsolescence due to 2 kitchens, 2 living rooms. This is the main reason the square footage is as excessive.
 - Subject is a duplex, which may or may not have been converted to one unit, appraiser did not explain this. Appraiser lists two kitchen and two living rooms which would also give it functional obsolescence. The appraiser did not give functional obsolescence for the excessive square footage even though he makes a reference to this several times in communication to the lender. This is atypical and demonstrates the appraiser does not understand appraisal methodology. In the event that this property should be considered a single unit and unique, the market needs to expand for this, maybe the entire state. Appraiser doesn't appear to consider this. The form is not entirely filled out, he lists material and does not include condition.
 - Appraiser selects comparables that appear to be the best available, yet due to his limited area on such a unique property these comps are potentially inaccurate. Due to the appraiser's lack of applying functional obsolescence, adjustments are not relevant.
 - Due to the misidentifying of the subject, its functional obsolescence, potentially larger market area, the report lacks any merit.
 - Appraiser does not understand the appraisal process, appears to need additional help on completing the appraisal and sought this from lender, with communications on what comps to select, how much square footage to apply to the house. He received comparable selections from the lender which is atypical. Ultimately the lender requested some type of adjustments that the appraiser complied with, that were not documented in the file. (Ex. 20, Selberg testimony).
 9. The third property that Ms. Selberg performed a Peer Review on was at 7 South 9th Street, Marshalltown, Iowa. The deficiencies found in the Respondent's appraisal included:
 - APPRAISER COMPLETES AN INCOME

PROPERTY ON A SINGLE FAMILY FORM. Appraiser cannot comment on listing/sales current sales in the subject's market as he does not subscribe to the MLS, this is atypical methodology. He does not disclose this to the reader which is misleading. He does not fill the information in on the form and leaves it blank.

- APPRAISER IS COMMENTING ON A SINGLE FAMILY MARKET RATHER THAN INCOME PROPERTIES.
 - APPRAISER DOESN'T COMMENT ON CURRENT USE VS. HOW HE IS APPRAISING IT AND WHETHER THERE IS A BETTER USE.
 - Relevant characteristics of the property have been ignored, it is an income property and the appraiser doesn't include all the market research needed to determine value. He doesn't include any of the details of an income producing property: rents, expenses, reserves, etc.
 - Appraiser includes the subject functional obsolescence with no explanation. Appraiser doesn't include any of the potential appliances, furnishings, etc., that may be included in an income property.
 - APPRAISER IS USING THE INCORRECT FORM, COMPS ARE NOT CORRECTLY DISPLAYED TO DETERMINE USEFULNESS.
 - Appraiser includes a gross rent multiplier without any support, or documentation in the work file, no reasoning as to ANY type of income approach support etc. ATYPICAL to USE A SINGLE FAMILY FORM FOR INCOME PRODUCING PROPERTY.
 - The appraiser's lack of access to the local MLS misleads the reader as to his statements on the listing etc of the property. APPRAISER IS INCOMPETENT AND LACKS THE KNOWLEDGE TO DETERMINE THE TYPE OF FORM HE SHOULD BE USING, NO DOCUMENTATION IN THE FILE WORKFILE FOR A GRM. If the intended user had instructed him to make the hypothetical assumption that it should be valued as a SF, he has also failed, as he has used other income producing properties as comps.
 - **Appraiser does not understand the appraisal process, is incompetent in problem identification.** (Ex. 22, emphasis in original, Selberg testimony).
10. The fourth and final property that Ms. Selberg performed a Peer Review on was at 1201 State Street, Tama, Iowa. Ms. Selberg found the following deficiencies:
 - Appraiser cannot comment on listing/sales current sales in the subject's market as he does not subscribe to the local MLS, this is atypical methodology. He does not disclose this to the reader which is misleading.
 - Appraiser gives a neighborhood description of Tama yet goes to Toledo for comps. He does not describe the differences between the two towns/market.
 - Appraiser furnished the work file, assessor's information. Appraiser does not discuss the subject's external obsolescence (traffic artery) and its impact on value.
 - Appraiser does not include the subject's sale of 8/4/04 @ \$75,000.
 - Appraiser does not include the subject's external depreciation.
 - Appraiser selects comparables that appear to be the best available, yet in researching properties on local traffic arteries, there were comps available (located on the assessors website). In researching the market information it appears that there is a difference in value between Tama and Toledo of approximately 4%. This is noticeable in both research and the assessor's valuing of sites between the two cities. Appraiser does not note this detail or recognize it. Between the appraiser's other reports under review, he is not consistent with his adjustments (noticeable on bath values and fireplace). He has misidentified comp #1, #2 siding, he has vinyl, and assessor has steel. Appraiser doesn't include 2 previous sales of C#3.
 - Due to the misidentifying of the subject, its external obsolescence, potential difference in market value between Tama & Toledo, the report is misleading. The appraiser's lack of access to the local MLS misleads the reader as to his statements on the listing, etc. of the property.
 - Appraiser does not understand the appraisal process, appears to select comps without doing any market

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research. Does not use a matched pair analysis to determine adjustment values. Misleads reader by not indicating his lack of using local MLS information. Does not make the effort to include similar external obsolescence comps. (Ex. 24, Selberg testimony).

11. Respondent admitted in the hearing that he allowed Mr. Hill, his trainee, to use his signature on appraisals. From June 13, 2006 to August 23, 2007, Mr. Hill created appraisals, with the Respondent's signature, and the Respondent never reviewed the appraisals. Many of the problems identified in the Ure Street and Dean Avenue properties the Respondent concurred in during his testimony.

The Respondent admitted he made mistakes. He took full responsibility for his errors. He trusted Mr. Hill and was let down. After physically inspecting 8-10 properties that Mr. Hill performed appraisals on, he stopped physically reviewing properties. The Respondent no longer works in the Des Moines area, and he no longer supervises any trainees.

The Appellant went through each of the four appraisals that were critiqued by Ms. Selberg. He defended each appraisal, believing that he did a fair job on each appraisal.

12. The evidence overwhelmingly supports the factual conclusion that Respondent has repeatedly demonstrated an inability to appraise in a manner that will protect the public interest—including purchasers, lenders, and others who rely upon the independence and competence of real estate appraisers when making financial decisions.

CONCLUSIONS OF LAW

Iowa law provides that a licensing board shall promulgate rules to govern the revocation of a licensee's license for acts including "knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established." Iowa Code § 272C.10(3).

Licensing boards in Iowa have the authority to "revoke, or suspend either until further order of the board, the privilege of a licensee to engage in one or more specified procedures, methods, or acts incident to the practice of the profession, if pursuant to hearing or stipulated or agreed settlement the board finds that because of a lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care." Iowa Code § 272C.3(2)(b).

Iowa Code sections 543D.17(1)(d),(e) 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 provisions 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.
- e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
- f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

543D.18 Standards of Practice

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.
2. A certified real estate appraiser shall not accept an appraisal assignment or a fee for an appraisal assignment if the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion or if the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

193F IAC 7.2 provides, in relevant part:

193F-7.2(543D) Grounds for disciplinary actions against certificate holders and associate registrants. The grounds for revocation and suspension of certificates and associate registrations and other disciplinary action 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:

...

7.2(2) Dishonesty, fraud or gross negligence in the development of an appraisal within the meaning of Iowa Code section 543D.17(1)"f," includes making misleading, deceptive or untrue representations in preparing or in communicating an appraisal.

...

7.2(5) Failure to comply with the USPAP applicable at the time of the development and communication of the real estate appraisal.

...

7.2(8) A violation of Iowa Code chapter 272C shall be grounds for discipline.

Count I

The preponderance of the evidence established that the Respondent violated Iowa Code sections 272C.10(3), 543D.17(1)(d),(e), and (f); 543D.18(1),(2); and 193F IAC 7.1, 7.2(2),(5) and (8), when he repeatedly failed to adhere to the USPAP appraisal standards in the development and communication of the appraisals identified in the hearing and when he failed to exercise reasonable diligence and demonstrated negligence or incompetence in the development, preparation and communication of the appraisals.

Experienced certified real estate appraisers reviewed the Respondent's appraisals and concurred that they failed to comply with the applicable USPAP standards. The Board's peer reviewer reviewed appraisal reports that the Respondent submitted as representing work performed over the past six months. The appraisal reports contained the same types of errors and deficiencies that were noted in all the Respondent's appraisal reports.

Count II

Iowa law provides that a licensing board has the authority to "revoke, or suspend either until further order of the board or for a specified period, the privilege of a licensee to engage in . . . the practice of the profession, if pursuant to hearing . . . the board finds that because of lack of education or experience, or because of negligence, or careless acts or omissions, or because of one or more intentional acts or omissions, the licensee has demonstrated a lack of qualifications which are necessary to assure the residents of this state a high standard of professional and occupational care." Iowa Code §272C.3(2) (b) and 272C.10(3).

The preponderance of the evidence established that the Respondent violated Iowa Code section 272C.3(2)(b) by providing appraisal services that evidence a lack of education, negligence, carelessness or omissions to assure the public a high standard of professional care.

The Respondent appears to lack a complete understanding of the role of the appraiser. The Respondent exhibited a lack of understanding of the way an appraisal is performed. The Respondent's actions put the public in jeopardy.

DECISION AND ORDER

The Respondent's serious and repetitive nature of the USPAP violations and the Respondent's lack of qualification warrant the revocation of his certificate.

IT IS THEREFORE ORDERED that Iowa Real Estate Appraiser Certificate No. CG01022, issued to Byron Witt, is hereby **REVOKED**, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that the Respondent may not apply for reinstatement of his certificate for at least two years from the date of this Decision and Order. **IT IS FURTHER ORDERED** that the Respondent will be required to redo all of the education, examination, and experience requirements required for initial licensure. The required education, examination, and experience must be completed following the issuance of this Decision and Order and prior to filing an application for reinstatement.

IT IS FURTHER ORDERED that before any application for reinstatement is granted, the Respondent will be required to establish that the reason for the revocation no longer exists and it is in the public interest for his license to be reinstated. 193 IAC 7.38(5). The Board retains the right to set conditions of probation in connection with any order reinstating the Respondent's license.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that the Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing.

IT IS FURTHER ORDERED that the Respondent shall notify all clients of the fact that his certification has been revoked within fifteen (15) days of receipt of this final decision, in accordance with 193 IAC 7.30(3). Within thirty days of receipt of this final order, the Respondent shall provide the Board with copies of the notice sent to clients.

Dated this 12th day of February, 2008.

Michael Lara, Appraiser
Chairperson
Iowa Real Estate Appraiser Examining Board

Cc: Byron Witt
111 EAST HIGH STREET, PO BOX 111
TOLEDO IA 52342
(PERSONAL SERVICE)

John Werner, Attorney
120 EAST HIGH STREET, PO BOX 249
TOLEDO IA 52342

Pamela Griebel, Assistant Attorney General
LICENSING & ADMINISTRATIVE LAW
DIVISION
IOWA DEPARTMENT OF JUSTICE
HOOVER BUILDING, 2ND FLOOR
DES MOINES, IA 50319

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A. 193 IAC 7.37.

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- IL, SE registration

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www.foth.com

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ARCHITECTS

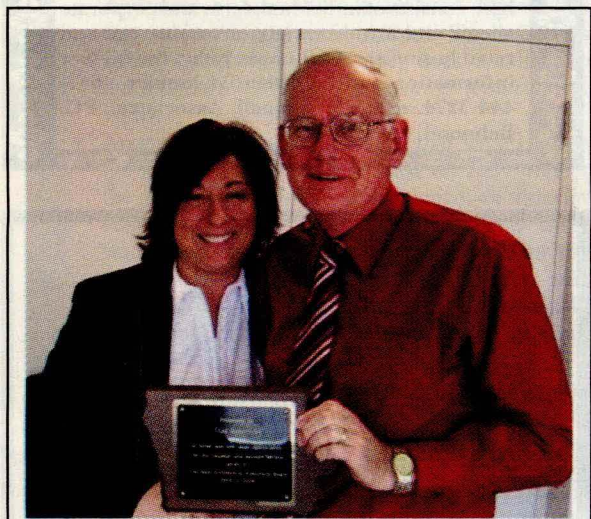
Iowa Professional Licensing Bureau Newsletter



Welcome
to our Website
<http://www.state.ia.us/iarch>

Communicating with your Board

Web-site address: www.state.ia.us/iarch
Phone: 515-281-5910
Address: 1920 SE Hulsizer Road, Ankeny, IA 50021
Fax: 515-281-7411
Glenda Loving: Executive Officer
E-mail: glenda.loving@iowa.gov
Phone: 515-281-7362
Jill Simbro: Staff
E-mail: jill.simbro@iowa.gov



President Terry Allers presents a plaque to Teri Petrzalek. Petrzalek's term expired on April 30, 2008. She had served six years on the board. The board and board staff will miss Teri and her significant contribution to the board and profession.

Chair Report



McKinney

This is the beginning of my eighth year as a public member on your Architectural Examiner's Board. I have served on numerous county and local boards in the past, but this board is the one I have enjoyed the most. I will admit my first meeting of hearing NCARB, AIA, FAIA, IDP, ARE, ETC; I wondered what I had gotten myself into! I was elected chair at the May meeting of the board and I look forward to serving in

that capacity.

When I was first appointed to the board, I knew what an architect did, but had no idea the amount of work and time it takes to become a registered architect. I have gained so much respect for the profession and admire architects who are willing to give their time and serve on the board. Your fellow professionals serve you well, not only on the state level, but at the regional and national levels.

The architect members and the public members on

the board have a common goal; that is to assure the health, safety and welfare of the public. The standards for registered architects are high, as is should be, and the board makes decisions based on that ideology. The State of Iowa requires that two public members serve on the board to assure the public is protected and I have never had to question that. I see the board as wanting to uphold the integrity of the profession on all levels at all times.

I have been fortunate to attend several NCARB meetings and have heard fascinating presentations on numerous topics, including Green Design, Healthy Design, Sustainable Design, Climate Change, and Global Perspective. The impact you, as an architect, can have on our health, environment, and world is mind boggling. I learned that the design of a hospital or Cancer Center can actually reduce a patient's stay by 3.7 days if the room has more natural light and a pleasant "green" view. As patients in any hospital or care facility, your designs can affect our health and well being. The practice of architecture is changing along with the way newly trained interns and architects see the world and communicate and we hope those changes will promote a better world.

I, personally, would like to extend the Board's congratulations to Iowa's very own Gordon E. Mills, FAIA, as he becomes the new NCARB president in June! As you may know, Gordy is a past member of the Iowa Board.

Governor appoints new board members to architecture board

Governor Culver recently appointed two new members to the Architectural Examining Board. The new members' terms began May 1, 2008 and expire April 30, 2011. Board members are eligible to serve three terms or nine years whichever is longer.



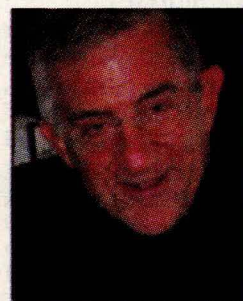
Dr. Sue Jarboe

Sue Jarboe

Dr. Sue Jarboe, public member, was appointed to replace Ann Diehl who had served the maximum term of nine years. Dr. Jarboe is the owner of Dasun Consulting, LLC., a business she started in early 2002. Sue leads projects on international trade policy, organizational development, business development and executive consultation for strategic development. Prior

to Dasun, Sue worked for Pioneer Hi-Bred International, Inc. for seven years, leading the company's business development efforts in China.

Born and raised in China, Sue completed her B.S. in biology and M.S. in plant breeding and statistical genetics in China before coming to Iowa State University where she received her Ph.D. in plant breeding and genetics. She conducted postdoctoral research at Purdue University and the International Maize and Wheat Improvement Center (CIMMYT). Sue also completed the executive MBA program at Purdue when working for Pioneer. Sue and her husband Darren have one daughter.



Tom Clause

Tom Clause

Tom Clause, Architect, was appointed to replace Teri Petrzalek. Petrzalek served two three year terms.

Clause has been in practice since 1973. His firm, Clause Architects, is located in Cumming, Iowa.

Clause has been a member of the A.I.A. since 1973 and served in various positions including president in 1979 and Legislative Committee Chair from 1984 to 1989. He also served on the Des Moines Architects Council Board of Directors from 1978 to 1979; as vice-president in 1979. He was elected to the College of Fellows in 1993.

Tom's civic memberships include Iowa Arts Council, Board of Directors from 1988 to 1997; vice chair 1993 to 1997; Des Moines Art Center Members Council president 1979; Des Moines Science Center; Art in State Architecture Advisory Committee 1980 to 1983; Professional Advisory Board, Iowa State University 1979; as well as many others.

Clause attended Iowa State University and received his BArch from Oklahoma University. Educational honors include Sigma Tau Honor Society and Tau Beta Pi Honor Society.

The board and staff welcome the newest members and look forward to working with Jarboe and Clause for the next three years.

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Board members appointed to NCARB committees

National Council of Architecture Registration Boards (NCARB) President-Elect Mills recently appointed four members of the Iowa Architectural Examining Board members and the Board executive officer to NCARB committees.



McKinney

Dale McKinney was asked to chair the Committee on Intern Development (IDP). In conjunction with this appointment he will also be a member of the Intern Development Advisory Committee (IDPAC) and Committee on Procedures and Documents (P&D). As Chair of Region 4 of NCARB, McKinney is a member of the Region Chairs committee as well.



Morgan

Jeffrey Morgan was appointed to serve as chair of the Committee on Education.

Terry Allers will continue as a member of the Broadly Experienced Architect Committee (BEAC).

Martha Green will continue to serve on the ARE Graphics Group 2 subcommittee and Item Writing Workshop.

Glenda Loving, Board executive, was asked to chair the Member Board Executive Committee (MBEC).

Additionally, two former Iowa board members, Teri Petrzalek and William Dikis continue to serve on the P & D Committee; Dikis as chair of the BIM task force.

The Iowa Board continues to serve the profession and the public through the work of NCARB. NCARB comprises the architectural registration boards of all 50 states as well as those of the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. NCARB assists its member state registration boards in carrying out their

duties and provides a certification program for individual architects.

The National Council of Architectural Registration Boards develops and recommends standards to be required of an applicant for architectural registration; develops and recommends standards regulating the practice of architecture; provides to member boards a process for certifying the qualifications of an architect for registration; and represents the interests of member boards before public and private agencies.

Committee on Procedures and Documents (P&D): The Procedures and Documents Committee studies the effectiveness and use of NCARB standards and related documents, i.e.,

- * Handbook for Interns and Architects,
- * NCARB Education Standard,
- * Legislative Guidelines and Model Law/Model Regulations,
- * Rules of Conduct,
- * Member Board Requirements,
- * IDP Guidelines,
- * Mentor Guidelines,
- * NCARB Bylaws and
- * NCARB special papers.

The Committee recommends changes to NCARB standards based on review of issues impacting architectural registration and practice, and on recommendations from other committees and task forces. These changes are reviewed by the Board of Directors and often result in resolutions at the Annual Meeting. The Committee is also responsible for ensuring that any changes resulting from the adoption of resolutions are correctly reflected in the appropriate Council documents.

The Committee is charged with interpreting NCARB's education, training, examination and registration requirements for certification. An applicant's qualifications may not be clearly addressed by a particular requirement, whereupon the Committee acts as an appeals review body. Successful appeals are maintained in a decisional precedents document which guides future decisions.

Finally, the Committee is responsible for reviewing impediments to interstate registration and practice, and recommending ways that such impediments may be removed. Such recommendations are made to the Board of Directors.

Committee on the Intern Development Program (IDP): Monitors the Intern Development Program's training criteria and record keeping process. Working with the American Institute of Architects, the Association of Collegiate Schools of Architecture and the American Institute of Architecture Students, the Committee contributes suggestions for improving IDP's supplementary education and mentorship components, and develops strategies to ensure participation by students, faculty, interns and architects. The Committee oversees information contained in the documents IDP Guidelines and IDP Mentor Guidelines on an annual basis. Recommendations for revisions to the IDP Training Requirements are forwarded to the Procedures and Documents Committee for further study.

Regional Chairs Committee: Reviews and publishes resolutions offered by the regions and the jurisdictions at the Annual Meeting of the Council and prepares laudatory resolutions where appropriate. Considers issues of concern to the Regional Conferences.

Member Board Executives Committee (MBEC): Studies the effectiveness of services which the Council provides its Member Boards and receives suggestions from Member Board Members, Member Board Executives, and others as to ways in which those services may be improved. The Committee may also have other duties including planning workshops for the staff of Member Boards.

Broadly Experienced Architect (BEA) Committee: Reviews dossiers and interviews eligible candidates to determine if they meet the NCARB education standard for certification. Trains new members of the committee. Evaluates the program for degree of rigor, fairness and non-bureaucratic procedures and compiles statistics on the number of applicants, their status and educational background.

Committee on Education: The Committee reviews Council policies and practices relating to the education of persons seeking to become architects and makes recommendations to the Board of Directors. The Committee oversees the EESA evaluation process that is performed by consultants and hears final appeals from applicants who do not agree with the EESA evaluation of their foreign education. The Committee also investigates the education requirement in foreign countries that have signed agreements with NCARB.

DISCIPLINARY ACTIONS

07-22

Marvin Larson

Violation: Respondent's registration lapsed on June 30, 2007. Respondent agreed that he performed architectural services in Iowa after his registration lapsed. Respondent reinstated his lapsed on registration on January 2, 2008.

Sanction: Respondent voluntarily entered a Consent Order with the Board and agreed to the following:

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for practicing architecture with a lapsed registration.

B. Civil Penalty

Respondent shall pay a \$1000.00 civil penalty no later than 30 days from the date the Order is approved by the Board. The board signed the Order on March 25, 2008.

C. Remedial Orders

(1) By February 28, 2008, Respondent shall mail written notice to all clients for whom he performed architectural services in the state of Iowa from and after July 1, 2007. The notice shall advise the client that Respondent's registration was lapsed when the services were provided. Copies of the letters shall be submitted to the Board no later than March 31, 2008.

(2) Respondent shall recertify and reseal, as applicable, all documents certified or sealed while his registration was expired. Respondent shall provide proof of compliance no later than March 31, 2008.

D. Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of architecture.

07-18

Robert A. Smith II

Violation: Respondent's registration lapsed on June 30, 2007. Respondent agreed that he performed architectural services in Iowa after his registration lapsed. Respondent reinstated his lapsed on registration on October 26, 2007.

Sanction: Respondent voluntarily entered a Consent Order with the Board and agreed to the following:

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for practicing architecture with a lapsed registration.

B. Civil Penalty

Respondent shall pay a \$1000.00 civil penalty no later than 30 days from the date the Order is approved by the Board. The board signed the Order on March 25, 2008.

C. Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of architecture.

07-17

Robert Whitehead

Violation: Respondent's registration lapsed on June 30, 2007. Respondent agreed that he performed architectural services in Iowa after his registration lapsed. Respondent reinstated his lapsed on registration on October 25, 2007.

Sanction: Respondent voluntarily entered a Consent Order with the Board and agreed to the following:

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for practicing architecture with a lapsed registration.

B. Civil Penalty

Respondent shall pay a \$250.00 civil penalty no later than 30 days from the date the Order is approved by the Board. The board signed the Order on March 25, 2008.

C. Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of architecture.

08-02

Gareld Whitehill

Violation: Respondent's registration lapsed on June 30, 1999. Respondent agreed that he performed architectural services in Iowa after his registration lapsed. Respondent reinstated his lapsed on registration on January 7, 2008.

Sanction: Respondent voluntarily entered a Consent Order with the Board and agreed to the following:

IT IS THEREFORE ORDERED:

A. Reprimand

Respondent is reprimanded for practicing architecture with a lapsed registration.

B. Civil Penalty

Respondent shall pay a \$1000.00 civil penalty no later than 30 days from the date this Order is approved and signed by the Board. The Board approved the Order on March 25, 2008.

C. Remedial Orders

(1) By February 28, 2008, Respondent shall mail written notice to all clients for whom he performed architectural services in the state of Iowa from and after July 1, 1999. The notice shall advise the client that Respondent's registration was lapsed when the services were provided. Copies of the letters shall be submitted to the Board no later than April 30, 2008.

(2) Respondent shall recertify and reseal, as applicable, all documents certified or sealed while his registration was expired. Respondent shall provide proof of compliance no later than April 30, 2008.

(3) Respondent shall complete the National Council of Architecture Registration Boards (NCARB) continuing education monograph titled Professional Conduct. Evidence of completion of the monograph shall be sent to the board no later than March 31, 2008.

D. Future Compliance

Respondent shall in the future adhere to all statutes and administrative rules in the practice of architecture.

Have you renewed your architecture registration?

Architects whose last name begins A—K are reminded that the renewal of your registration was due June 30, 2008. If you failed to renew by that date, your registration has lapsed and you will need to reinstate accordance with the board's rules at IAC193B—2.6 and 2.7.

Architects who failed to renew should not be offering architectural services in the state of Iowa beyond June 30, 2008 or using the title "architect" in any capacity. Violators may be subject to disciplinary action imposed by the board for continuing to practice architecture on a lapsed registration.

Renewal notice brochures were mailed the week of May 15, 2008 to your last known address. If you have not received a notice, you still have time to renew your registration on-line or download a paper form for mailing. Go to the board's website at <http://www.state.ia.us/iarch> and click on the "Renew On-Line" link. The site is active until 11:59 p.m. on July 30, 2008.

You can check the status of your registration at anytime by clicking on the link to "Online License Verification."

Important information regarding elevators

Do you or your clients own or operate an older, hydraulic elevator? Owners and operators of certain elevators need to make a significant investment into safety by July 1, 2011. Hydraulic elevators installed prior to January 1, 1975, must be upgraded to prevent the uncontrolled descent of the elevator car due to the rapid release of hydraulic fluid in the event of a catastrophic failure.

The American Society of Mechanical Engineers' code A17.1-2000, Rule 8.6.5.8, requires that all below ground hydraulic cylinders have a safety bulkhead, a plunger gripper, or safeties with conforming guide rails and fastenings. July 1, 2011, is the deadline to comply with this rule. Please plan now to install this important safety equipment. In the event that your facility has already been upgraded, the Division of Labor Services will accept documentation from the manufacturer attesting to this fact and no further action will be required.

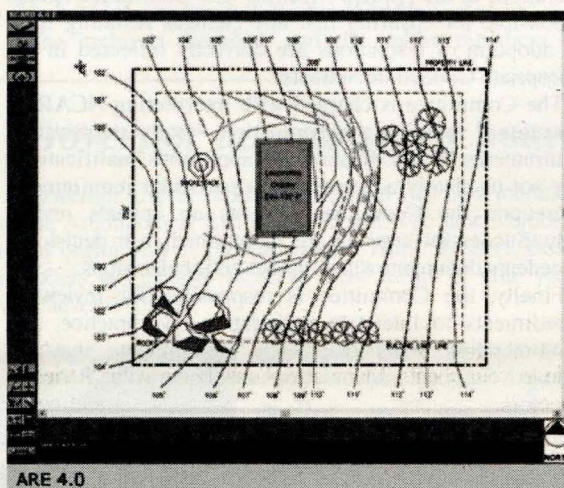
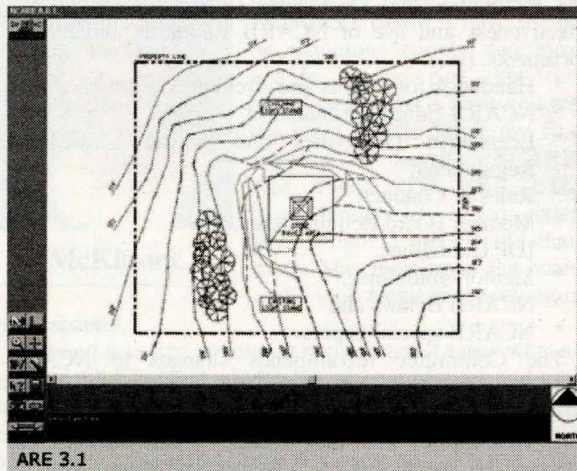
Are you planning to alter or install an elevator, escalator, boiler, hot water heater, pressure vessel or other equipment regulated by the Division of Labor Services? If so, please use the resources of our office from the initial planning and design phases of your project so that the project is designed in compliance with the applicable codes. Designing a building in compliance with the safety codes can prevent expensive construction delays.

Before an elevator, escalator or similar equipment can be installed, an installation permit must be obtained from the Division of Labor Services. Please allow eight weeks for processing your application for an elevator installation permit. At least ten days before a boiler, pressure vessel, or hot water heater can be installed in a place of public assembly, the Division of Labor Services must be notified.

For more details and compliance assistance, please visit www.iowaworkforce.org/labor.

ARE e-News Site Grading ARE 3.1 vs. ARE 4.0

Candidates should be advised that there will be a significant difference between the Site Grading vignette in ARE 3.1 and ARE 4.0 (see the graphics below). In ARE 4.0, the Site Grading vignette has been updated and candidates will be required to regrade the site and create a new level pad on which a given object must be placed. The Site Grading vignette in ARE 3.1 will not change.



Candidates preparing for Site Grading in ARE 3.1 should use the *ARE Study Guide: Graphic Divisions, Version 3.1* (<http://www.ncarb.org/publications/arestudyguides.html>) and practice program (<http://www.ncarb.org/are/tutorial2.html>).

Candidates preparing for Site Grading in ARE 4.0 should use the *Site Planning & Design (SPD) Study Guide* and SPD Practice Program located in the ARE 4.0 section of NCARB's web site. (<http://www.ncarb.org/are/40/StudyAids.html>).

NOTE: The Mechanical & Electrical Plan vignette also will have new lighting requirements in ARE 4.0. Candidates should use the corresponding ARE version study guide and practice program to prepare for this vignette.

ARE 4.0 Study Aids?

ARE 4.0 Study Aids are now available! Candidates can download all of the new study aids—which include the new *ARE 4.0 Guidelines*, study guides, and practice programs for each division—for free!

Each of the seven downloadable divisions (except Schematic Design) include sample multiple-choice questions, check-all-that-apply and quantitative fill-in-the-blank questions, sample solutions to the graphic vignettes, and the practice program software for that division. In addition, the *ARE 4.0 Guidelines* is available as a separate download that includes general information that is applicable to all divisions of ARE 4.0.

Additionally, *ARE 3.1 Guidelines*, study guides, and the practice program for ARE 3.1 will continue to be available on NCARB's web site for no charge.

Personal Calculators

Effective July 1, 2008, ARE candidates will no longer be permitted to bring a personal calculator into the test center. All divisions of the ARE 3.1 and ARE 4.0 will include an on-screen scientific calculator for your use.

Important Dates:

For currently eligible candidates that have NOT passed a division in ARE 3.1:

Last day to make an appointment for an ARE 3.1 division:
13 May 2008

Last day to take an ARE 3.1 division:
15 May 2008

For candidates planning to take ARE 4.0:
First day to schedule an appointment for ARE 4.0 divisions:
18 May 2008

ARE 4.0 divisions are available in test centers:
01 July 2008

Transitioning to ARE 4.0?

If you are currently eligible to take the ARE (and have not passed any divisions), you will be automatically transitioned to ARE 4.0 after 15 May 2008. Following this transition, you will continue to use the same Authorization to Test (ATT) number that Prometric had initially provided to you when your Board made you eligible. When you go online or call to schedule an ARE 4.0 examination, you will be able to use your existing ATT number to register for all exams you are then eligible to take.

ARE Vouchers

Current vouchers for ARE examinations (version 3.1 or earlier) will expire when the holder of the voucher is transitioned to the ARE 4.0. Please contact the ARE Helpdesk (formerly ARE Operations) at 800-896-2272 for information about how you can convert your current voucher to an ARE 4.0 voucher. You will need to return your current voucher(s) and a certified check/money order for any additional funds required. All new vouchers will be valid for one year only from date of purchase.

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Lead Sr. Electrical Engineer/Electrical Department Manager-Phoenix, AZ

We are seeking a motivated Lead Sr. Electrical Engineer/Department Manager for our Phoenix, AZ office. The ideal candidate will have a minimum of 10 years as technical or senior-level project management experience and have Arizona Professional Registration. Design experience with institutional, commercial, educational and healthcare projects is strongly desired.

Must have excellent oral and written communication skills. If you are interested in being part of a growing team of professionals and seeking to raise the bar in design engineering services, please email your resume and cover letter including desired salary to: TMAD TAYLOR & GAINES, attention: Suanne McWherter, jobs@tmadtg.com or fax to: 626/628.3843. www.tmadtg.com

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Bill Brown
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ENGINEERS & LAND SURVEYORS

Iowa Professional Licensing Bureau Newsletter



Communicating with your Board

Web-site address: www.state.ia.us/engls
Phone: 515-281-4126
Address: 1920 SE Hulsizer Road Ankeny, IA 50021
Fax: 515-281-7411
Gleean Coates: Executive Officer
E-mail: gleean.coates@iowa.gov
Jennifer Morrison: Staff
Phone: 515-281-4126
E-mail: jennifer.morrison@iowa.gov

IELSEB Calendar July-October 2008

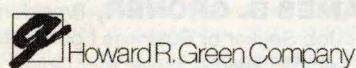
| | |
|----------------------|---|
| July 4, 2008 | Fourth of July Holiday—Office Closed |
| July 15, 2008 | Exam application deadline for all applications with an experience requirement (PE, PS, FS and graduates of non-ABET engineering programs applying for FE). These applications must be submitted to the Board office for review on or before July 15. |
| August 13-16, 2008 | NCEES Annual Meeting—Minneapolis, MN |
| September 1, 2008 | Exam application deadline for senior students in ABET engineering programs, individuals with ABET engineering degrees and those who are retaking examinations. Applications are submitted directly to Engineering Exam Services (www.pcshq.org). |
| July 31-Aug. 1, 2008 | Board Meeting—Ankeny |
| September 1, 2008 | Labor Day—Office Closed |
| September 16, 2008 | Board Meeting—Ankeny |
| October 24, 2008 | PE and PS examinations—Ames |
| October 25, 2008 | FE and FS examinations—Ames |



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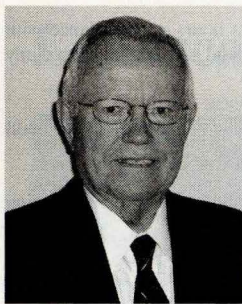
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IELSEB welcomes new board member



Shellburg

Governor Culver has appointed Jerry Shellburg, PE/LS, of Red Oak to serve on the Engineering and Land Surveying Examining Board as a professional member for a three-year term beginning May 1, 2008. Jerry replaces Lyle TeKippe who served two three-year terms on the Board.

Jerry F. Shellberg, 72, is the president of JFSCO Engineering, civil engineers and land surveyors, located in Red Oak, Iowa. JFSCO provides a variety

of engineering and surveying services to clients throughout the Midwest. Jerry is active in the business as engineering manager on a number of projects.

Jerry began his career in engineering & surveying with the Iowa DOT after graduating from Iowa State University

in 1957 with a BS degree in Civil Engineering. In 1961 he was named City Engineer for the City of Red Oak, Iowa. After four years with the City he joined the firm of HGM as senior project engineer and branch office manager. In 1990 he established JFSCO Engineering. Jerry has been licensed as a professional engineer and land surveyor in the State of Iowa since 1960.

He is a lifetime member of SLSI, NSPE, ASCE and APWA. Jerry serves as Chairman of the Montgomery County Planning and Zoning Commission and is a member of the Historical Preservation Commission for the City of Red Oak. He is a past president of the Red Oak Community School Board and is a current board member of the Red Oak Industrial Foundation.

Jerry's family includes his wife Barbara, 5 grown children and 8 grandchildren.

Jerry enjoys travel and visiting the grandchildren. His hobbies include snow skiing, tennis and golf.

Parting thoughts from Susan Albright, Public Member

As the end of my term neared, I began to reflect on what I have learned from my service on the board. While I was thinking about it, I made some notes for myself and decided that perhaps I would share them in the hope that some professionals might be spared the experience of dealing with a complaint about their professional practice.

If you are trying, there are a couple of easy ways to get a complaint filed against you. Even if you are found to have done all the right things, dealing with a complaint can be a time-consuming and stressful experience.

The first easy way to get a complaint filed against you is to be rude to your clients. Many complaints begin with "I tried to talk to him/her, but" Many of these issues would not have become formal complaints if the professional had taken the time to better explain the product or issue to the client. While some people will refuse to understand forever, fewer of them will file complaints if you refrain from getting angry or impatient in trying to explain. Your clients do not appreciate condescension. It does take time away from "billable pursuits" but a calm explanation and just taking the time to listen would often take the edge off the anger of the client. There are usually straightforward ways to explain an issue you have been hired to resolve without treating your client as though they are stupid if they fail to understand or agree with your initial explanation. There may be times when all of us have to just walk away, but a sincere attempt will sometimes prevent a complaint.

The second easy way to get a complaint filed against you is to ignore your clients or your fellow professionals. Few people are tolerant of being ignored. While you may believe you have performed your service in the best possible way, there may be other opinions. Acknowledging a question and making a reasonable attempt to resolve disagreements will often make your life easier in the long run. Whether or not there is more than one way to solve a problem, an attempt to explain to your fellow professional or to your client why you believe your conclusion was the right one may save you from more time-consuming problems later.

This might also be a good time to mention that for Land Surveyors, the Code is very specific about errors on recorded plats. It is specific whether the surveyor who made the error finds it, or another who is working in the area finds it. Iowa Code section 354.24 says in part:

If an error or omission in the data shown on a recorded plat is detected by subsequent examinations or revealed by retracing the lines shown on the plat, the original surveyor or two surveyors confirming the error through independent surveys shall record an affidavit confirming that the error or omission was made.

It is surprising how often Licensed Land Surveyors seem to be unaware that an affidavit signed by the surveyor who found the error and another who reviews the work and agrees does not comply with the law. Everyone makes mistakes so corrections are inevitable, but there is only one way to appropriately make a correction to a recorded plat.

Finally, if you forget to renew your license please don't blame it on your administrative support staff! Renewal is your responsibility, not theirs.

I have learned more than I could have imagined while on the Board. The Board members I have served with have been very generous in sharing their experience and expertise. Gleean and Jennifer are great to work with, understand the processes, and are always willing to help. Pam Griebel may tire of reminding Boards of the concept of due process but she never shows it. Her experience and knowledge of administrative law is invaluable. Serving on this Board is a great experience that I highly recommend.

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DISCIPLINARY ACTIONS

Iowa Engineering and Land Surveying Examining Board

Case No. 07-31 In the matter of Nicholas J. Kuhn, PE, of Granger, Iowa

On December 14, 2007, the Board filed an Amended Notice of Hearing and Statement of Charges in the matter of Nicholas J. Kuhn, PE #14643.

The respondent was charged with failure to comply with a compliance review of his professional development hours in accordance with 193C IAC 7.8(542B, 272C) and failure to respond within 30 days to multiple communications from the Board and to make available any relevant records in accordance with 193C IAC 9.3(4).

The Board filed a Consent Order in this case on March 6, 2008. Following is a summary of the terms of the Consent Order:

1. Respondent was reprimanded for failing to timely respond to Board requests for documentation in connection with a compliance audit of professional development hours.
2. Respondent was required to pay a civil penalty of \$250.00 no later than March 15, 2008.
3. Respondent is required to complete the 20 PDH ethics correspondence course offered by the Murdough Center for Engineering Professionalism from the College of Engineering at Texas Tech University by August 1, 2008.

The Iowa Engineering and Land Surveying Examining Board has signed Consent Orders pursuant to Iowa Code sections 17A and 272C.3(4)(2001) and 193C—IAC 3.4(10) with the following respondents:

Case No. 08-01 In the Matter of Karen Atnip, PE 17943

Case No. 08-06 In the Matter of Stephen Hoffman, PE 12815

Case No. 08-08 In the Matter of Gerald Katzmann, PE 05117

Case No. 08-09 In the Matter of David Mu, PE 15466

Case No. 08-18 In the Matter of Donald A. Thomas, LS 06019

In each of the cases above, the respondent submitted an application for licensure renewal indicating the completion of professional development hours short of the requirement for renewal of the license. In lieu of prosecuting a first offense concerning the Board's continuing education requirements for renewal set forth in Iowa code sections 272C and 542B(2007) and 193C—IAC chapters 3 and 7, the Board and the respondents agreed to Consent Orders pursuant to 193C IAC—3.4(10). The signed Consent Order is part of the permanent record of each respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action imposed in the event of future violations. Failure to comply with the provisions of the Consent Order shall be grounds for disciplinary action pursuant to Iowa code section 272C.3(2)(a)(2007). Each respondent was required to pay a civil penalty and complete the required PDH by July 1, 2008.

Fall 2008 Examination Application Deadlines

The NCEES Fundamentals of Engineering and Fundamentals of Surveying Examinations will be offered in Ames on **Saturday, October 25, 2008**. The Principles and Practice of Engineering and Principles and Practice of Surveying Examinations will be given in Ames on **Friday, October 24, 2008**.

Applications for the Fundamentals of Engineering examination are submitted directly to Engineering Examination Services (Go to www.peshq.org to obtain the registration form and instructions.) and **must be received on or before September 1 for the examination given in the fall**. Applications from the following applicants are submitted on forms provided by the examination service: any applicant who has an ABET/EAC or CEAB accredited engineering degree; any applicant who is enrolled as a senior student in an ABET/EAC or CEAB accredited engineering curriculum; or any applicant who has a Masters Degree in engineering from an institution in the United States with an accredited bachelor's degree in the same curriculum.

Applicants for the Fundamentals of Engineering examination that do not meet the criteria in the paragraph above must submit application for approval to the board on forms provided by the board. These applications

require a more detailed review and approval process and must, therefore, be submitted to the Board office. The applications are available from the Board's web page at www.state.ia.us/engls. **These applications must be postmarked on or before July 15 for the October examinations.**

Applications for the Fundamentals of Surveying, Principles and Practice of Engineering, and Principles and Practice of Surveying examinations require a more detailed review and approval process and must, therefore, be submitted to the Board office. **These applications must be postmarked on or before July 15 for the October examinations.** When a candidate's application is approved by the Board, notification will be sent to the candidate along with the appropriate form for scheduling the examination and paying the examination fees.

You can find more information on the application process at www.state.ia.us/engls or contact Jennifer Morrison at 515-281-4126 or by e-mail at Jennifer.Morrison@iowa.gov.

For information on the format and content of the examinations contact the National Council of Examiners for Engineering and Surveying (NCEES) at 1-800-250-3196 or check out their web site at www.ncees.org.

Public Information

Do you or your clients own or operate an older, hydraulic elevator? Owners and operators of certain elevators need to make a significant investment into safety by July 1, 2011. Hydraulic elevators installed prior to January 1, 1975, must be upgraded to prevent the uncontrolled descent of the elevator car due to the rapid release of hydraulic fluid in the event of a catastrophic failure.

The American Society of Mechanical Engineers' code A17.1-2000, Rule 8.6.5.8, requires that all below ground hydraulic cylinders have a safety bulkhead, a plunger gripper, or safeties with conforming guide rails and fastenings. July 1, 2011, is the deadline to comply with this rule. Please plan now to install this important safety equipment. In the event that your facility has already been upgraded, the Division of Labor Services will accept documentation from the manufacturer attesting to this fact and no further action will be required.

Are you planning to alter or install an elevator, escalator, boiler, hot water heater, pressure vessel or other equipment regulated by the Division of Labor Services? If so, please use the resources of our office from the initial planning and design phases of your project so that the project is designed in compliance with the applicable codes. Designing a building in compliance with the safety codes can prevent expensive construction delays.

Before an elevator, escalator or similar equipment can be installed, an installation permit must be obtained from the Division of Labor Services. Please allow eight weeks for processing your application for an elevator installation permit. At least ten days before a boiler, pressure vessel, or hot water heater can be installed in a place of public assembly, the Division of Labor Services must be notified.

For more details and compliance assistance, please visit www.iowaworkforce.org/labor.

Iowa Administrative Code Update

At its regular meeting on January 10, 2008, the Engineering and Land Surveying Examining Board adopted amendments to Chapters 3, 6 and 9 of Iowa Administrative Code 193C. Notice was published in the March 12, 2008, Administrative Bulletin. These amendments became effective April 16, 2008. Following is a summary of those changes:

The amendment to 3.1(3) enumerates Board-approved foreign credential evaluators. The amendment to 3.4(2) clarifies that it is the board's intention to mail renewal notifications instead of renewal applications prior to the license expiration date. The amendment to 3.5(542B) allows an out-of-state resident who is applying for reinstatement to provide a statement from the resident state's licensing board as documented evidence of compliance with mandatory continuing education requirements during a period when the out-of-state resident's Iowa license was lapsed. The amendment to 6.1(4) corrects an inconsistency in the language by changing "information block" to "certification block" wherever it appears. Chapter 9 is being amended regarding confidentiality of complaint and investigative information to allow the board to disclose information to a licensee that would otherwise be confidential under Iowa Code §272C.6(4) under narrow circumstances and defines those circumstances.

In addition, at its regular meeting on March 5, 2008, the IELSEB adopted an amendment to the requirements for licensure by comity found at 193C IAC—4.2(542B). The amendment allows the Board more flexibility when reviewing applications for licensure by comity from another licensing jurisdiction by addressing the matter of comity applicants who did not fully satisfy the licensure requirements at the time of initial licensure in another jurisdiction, but who have since initial licensure fulfilled all requirements in a manner that is determined to be substantially equivalent to meeting the standards imposed on current applicants for initial licensure. Thus, individuals who meet all the requirements of initial licensure but who completed them out of order will have a smoother avenue to licensure in Iowa. The amendment was published in the Administrative Bulletin on May 21 and will be effective June 25, 2008.



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E-mail: glenda.loving@iowa.gov

Jennifer Morrison: Staff

E-mail: jennifer.morrison@iowa.gov

Governor Culver appoints Hawks to Landscape Architecture Board



Hawks

Governor Culver recently appointed Laura Hawks, LA to the board for a three year term beginning May 1, 2008. Her term expires April 30, 2011. This is Hawks' second term on the Board. She previously served on the Board from 1999 to 2002.

Ms. Hawks is a registered landscape architect with RDG Planning & Design, an architecture, landscape architecture, interior design, mechanical/electrical engineering, and planning corporation located in Des Moines, Iowa. RDG also has offices in Ames, and Coralville Iowa, Omaha, Nebraska, and Ft Myers, Florida.

Ms. Hawks received her Bachelor of Science in Landscape Architecture from Iowa State University in 1980. She has over 20 years of experience as a landscape architect in the planning and designing of a variety of public and private projects. She has been involved with all aspects and phases of site improvement projects, from proposal preparation, through conceptual phases, and design development, through construction documentation, and construction administration. Prior to joining RDG in 2004, Ms Hawks worked as Principal of Hawks Design; she has worked as a Senior Landscape Architect with Landmark Surveying & Engineering, Hansen Lind Meyer and Hitchcock Design Group in Iowa and Illinois. She is a member of the American Society of Landscape Architects, and has served on the Iowa Chapter ASLA Executive Committee; the Landscape Architectural Examining Board; and the Iowa State University Landscape Architectural Practitioners Advisory Council.

Board adopts revisions to rules

At the April meeting the Board voted to adopt the following revisions to Chapter 2 of the board's rules. As a result of changes received from the ASLA-Iowa chapter, two changes were made to the rules filed under Notice of Intended Action. These amendments will become effective June 25, 2008.

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Adopted and Filed

Pursuant to the authority of Iowa Code section 544B.5, the Landscape Architectural Examining Board hereby amends Chapter 2, "Examinations and Licensing," Iowa Administrative Code.

The proposed amendments to Chapter 2 outline a process that allows a registrant to register as "inactive" and provides a procedure to reinstate a "lapsed" registration to "inactive" status.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 13, 2008 as **ARC6601B**. In response to comments received by the American Society of Landscape Architects (ASLA) Iowa chapter the board is making two changes to the Notice. The proposed language in subparagraphs 2.9(1)"a"(3) and 2.9(1)"b"(3) is changed to read as follows: (3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1.

These amendments are subject to waiver pursuant to 193—Chapter 5.

The following amendments are adopted.

These amendments will be effective June 25, 2008

ITEM 1. Adopt the following new subrule:

2.8(8) Inactive status. This subrule establishes a procedure under which a person issued a certificate of registration as a landscape architect may apply to the board to register as inactive. Registration under this subrule is available to a registrant residing within or outside the state of Iowa who is not using the title "landscape architect" while offering services as a landscape architect. A person eligible to register as inactive may, as an alternative to such registration, allow the certificate of registration to lapse. During any period of inactive status, a person shall not engage in the practice of landscape architecture while using the title "landscape architect" or any other title that might imply that the person is offering services as a landscape architect in violation of Iowa Code section 544B.18. The board will continue to maintain a database of persons registered as inactive, including information which is not routinely maintained after a certificate of registration has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive a renewal notice if the notice is sent by the board, board newsletters, and other mass communications from the board.

a. Affirmation. The renewal application shall contain a statement in which the applicant affirms that the applicant will not engage in the practice of landscape architecture while using the title "landscape architect" in violation of Iowa Code section 544B.18, without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193D—2.9(544B,17A).

b. Renewal. A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193D—2.8(544B,272C,17A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193D—2.10(544B,17A). An inactive certificate of registration shall lapse if not timely renewed.

c. Permitted practices. A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided

by a person to whom a certificate of registration has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "landscape architect" or any other title restricted for use only by landscape architects pursuant to Iowa Code section 544B.18 (with or without additional designations such as "inactive"). Restricted titles may be used only by active landscape architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while registered as inactive, engages in any of the practices described in Iowa Code section 544B.18 is subject to disciplinary action.

ITEM 2. Amend rule 193D—2.9(544B,17A) as follows:
193D—2.9(544B,17A) Reinstatement. An applicant for reinstatement must inform the board in writing of the intention to reinstate. The board shall use the following criteria when determining the individual requirements for reinstatement:

2.9(1) Reinstatement to active status from lapsed status.

a. An individual may reinstate an expired license certificate of registration to active status within two years of expiration by:

a. (1) Paying the reinstatement fee of \$100 \$25 per month of expired registration;

b. (2) Paying the current renewal fee;

c. (3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and

d. (4) Submitting documented evidence of completion of 12 contact hours of continuing education in health, safety, welfare subjects for each year or portion of a year of expired registration in compliance with requirements in 193D—Chapter 3. The hours reported shall be in addition to the 24 hours in health, safety, welfare subjects which should have been reported on the June 30 renewal date on which the registrant failed to renew. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.

Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

2.9(2) b. An individual may reinstate to active status a license certificate of registration which has been expired for more than two years by:

a. (1) Paying the reinstatement fee of \$100 \$25 per month of expired registration up to a maximum of \$750;

b. (2) Paying the current renewal fee;

c. (3) Providing a written statement outlining the professional activities of the applicant during the period of nonregistration defined as the practice of landscape architecture in Iowa Code section 544B.1; and

d. (4) Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than 48 hours in health, safety, welfare subjects; however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate to active status.

Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the L.A.R.E. as a prerequisite to reinstatement to active status.

2.9(2) Reinstatement to inactive status from lapsed status. An individual may reinstate a lapsed certificate of registration to inactive status as follows:

a. Reinstatement fees. The individual shall:

(1) Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$100 if the application for reinstatement is filed on or before June 30, 2009.

(2) Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$750 if the application for reinstatement is filed on or after July 1, 2009.

b. The individual shall pay the current renewal fee.

c. The individual shall provide a written statement in which the applicant affirms that the individual has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544B.18 during the period of lapsed registration.

2.9(3) Reinstatement to active status from inactive status or retired status. An individual may reinstate an inactive registration or retired registration to active registration as follows:

a. The individual shall pay the current active registration fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.

b. The individual shall submit documented evidence of completion of 24 contact hours (16 contact hours in public protection subjects) of continuing education in compliance with requirements in 193D—Chapter 3. The continuing education hours used for reinstatement to active status may not be used again at the next renewal.

c. Continuing education for subsequent renewals.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the individual shall not be required to report continuing education.

(2) At the first biennial renewal date of July 1 which is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the individual shall report 12 hours of previously unreported continuing education.

2.9(4) An individual shall not be allowed to reinstate to inactive status from retired status.

ITEM 3. Amend rule 193D—2.10(544B,17A) as follows:
193D—2.10(544B,17A) Fee schedule. The appropriate examination fee or examination exemption filing fee shall accompany the application. Filing fees are not refundable.

| | |
|--------------------------------|----------------------|
| Examination fee | not to exceed \$1000 |
| Initial examination filing fee | \$50 |
| Proctoring fee | \$50 |
| Examination exemption fee | \$300 |

(This certificate of registration is to be effective to the June 30 which is at least 12 months beyond the date of the application.)

| | |
|--|------|
| Certificate of registration Wall certificate fee | \$50 |
|--|------|

(This certificate is to be effective to the June 30 which is at least 12 months beyond the date of the application.)

| | |
|----------------------------------|------|
| Wall certificate replacement fee | \$25 |
|----------------------------------|------|

| | |
|---|------------|
| Certificate of license registration fee | \$15/month |
|---|------------|

(This certificate of license registration is to be effective the day of board action until June 30.)

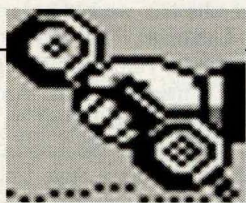
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| Biennial registration fee (active) | \$350 |
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| Biennial registration fee (inactive) | \$100 |
|--------------------------------------|-------|

| | |
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| Reinstatement of lapsed registration | not to exceed \$750 |
|--------------------------------------|---------------------|

REAL ESTATE

Iowa Professional Licensing Bureau Newsletter



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Continuing education requirements for December 2008 renewals

While the opportunity to renew is not yet available, this article is to aid those individuals who are up for renewal in December. Now is the time to make sure you have the correct hours completed.

IMPORTANT: Your continuing education **MUST** be completed prior to January 1, 2009. You **DO NOT** have a 30-day grace period for completing your education. If you do not have the required number of hours for an active status you need to renew to the inactive status until you have the required education completed.

Brokers:

- 8 hrs. Law Update
- 4 hrs. Ethics
- 24 hrs. Electives

Salespersons:

First time renewals for salespersons (not available in home study)

- 12 hrs. Buying Practices
- 12 hrs. Listing Practices
- 12 hrs. Developing Professionalism and Ethical Practices

All subsequent renewals (18 hours may be completed by home study):

- 8 hrs. Law Update
- 4 hrs. Ethics
- 24 hrs. Electives

Brokers and salespersons can, at any time after July 1 of the year of renewal, take and pass the appropriate licensing exam **instead of** completing the required continuing education. You must contact the Commission's office to obtain an authorization letter for admittance to take the exam. This authorization letter must be received by the licensee prior to arriving at the testing site. You will **not** be allowed to take the exam without the authorization letter from the Commission. Please submit your written request for an authorization letter by contacting Dana at dana.klisares@iowa.gov or fax at 515-281-7411.

If your license is inactive or you wish to change your status from active to inactive, you **must** still renew or your license will expire. To renew inactive, you are **NOT** required to complete the continuing education or carry E&O insurance, but, the licensing fee **must** be paid or your license will expire.

From the Auditor's Corner.....



Evans

Here are some tips and suggestions:

- 1. Broker's Equity.** In regards to Broker's Equity (or known to some as "Personal Funds"). When establishing a real estate trust account, up to \$500 in personal funds may be deposited into the trust account. These funds are to be used for the accounting of transaction fees (monthly service charges, check printing charges, wire fees, NSF charges, etc.) assessed against the trust account. These fees must be posted to both the Broker's Equity Individual Sub-ledger account and the General Ledger immediately after being notified by the bank that the fee was assessed. All deposits and disbursements from Broker's Equity should be posted immediately to the General Ledger and the Broker's Equity Sub-ledger. Broker's Equity should never show a negative balance and should be tracked on a timely basis.
- 2. Interest.** When establishing a Trust Account the Iowa Real Estate Commission requires that the Trust Account shall be interest-bearing. The amount of interest remitted will be all interest earned less the service charge for maintaining an interest account

and the charge for remitting the interest to the state. Usually, the service charge is a flat fee. Other service charges like deposits, check clearing and check printing are the broker's expense and shall come out of the Broker's Personal Funds Account.

- 3. Remitting the Interest.** All interest earned on the Trust Account shall be transferred monthly or quarterly to the State of Iowa. Quarterly dates are January 1, April 1, July 1, and October 1. Interest needs to be submitted by these dates, in accordance with the laws and rules, no matter the amount. Also, it should be noted, that it is the **responsibility of the broker** to see that interest is paid to the state; whether the financial institution or the broker deposits the funds.
- 4. Depositing Trust Funds.** All trust funds must be deposited into the broker's trust account no later than five banking days after acceptance of the offer to purchase.
- 5. Trust Account Reconciliation Excel Spreadsheet.** If you are interested in receiving an Excel file with the Trust Account Rec. Spreadsheet or a word file that has the Trust Account Manual, please contact me at jeff.evans@iowa.gov or go to our website www.state.ia.us/irec.

Have a great summer, and as always, feel free to let me know if you have any other questions or concerns when dealing with your trust account or if you have any questions about earnest money situations, etc. Please feel free to call me at 515-281-5596 or e-mail me at jeff.evans@iowa.gov.

KOESTNER, MCGIVERN & ASSOCIATES
Real Estate Appraisals & Consulting

REAL ESTATE APPRAISER - POSITIONS AVAILABLE

Koestner, McGivern & Associates has an immediate job opening for a certified (or near certification) Real Estate Appraiser in the Greater Des Moines area. FHA and Employee Relocation valuation experience considered a strong plus.

Position is an employee status, with competitive fee split and generous expense reimbursement. Vested employees qualify for matching retirement fund as well as potential equity positions in a real estate investment fund. Koestner, McGivern & Associates is a regional real estate valuation company covering most of Iowa, eastern Nebraska and western Illinois. Applicants should submit a resume summarizing their relevant experience and training to:

Koestner, McGivern & Associates, Attn: Bob McGivern
2208 E. 52nd Street - Suite B & D, Davenport, Iowa 52807 or bob@marketvalue.com

Additional opportunities in our other office locations can be viewed at www.marketvalue.com

- Quad Cities, IA
- Burlington, IA
- Cedar Rapids, IA
- Omaha, NE
- Council Bluffs, IA
- Des Moines, IA
- Iowa City, IA
- Waterloo, IA

** All inquiries are held in complete confidentiality.*

Legislative changes effective July 1, 2008

While the Iowa Real Estate Commission did not initiate any requested law changes this past 2007-2008 Legislative Session, substantial changes were made to 543B as a result of SF 2250. The change affecting current licensees as well as new applicants was signed by the Governor on April 18, 2008, and will take effect July 1, 2008. Please remember that these are changes in Iowa law, not Commission rules, and as such are not subject to variance.

The first change involves 543B.15(3)(a) establishing offenses for which a conviction precludes an applicant from being licensed. The change is in bold type and underlined:

3a. An applicant for a real estate broker's or salesperson's license who has been convicted of an offense specified in this subsection shall not be considered for licensure until the following time periods have elapsed following completion of any applicable period of incarceration, or payment of a fine or fulfillment of any other type of sentence:

(1) For an offense which is classified as a felony, two years.

(2) Notwithstanding subparagraph (1), for offenses including or involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, **or other similar offense, any offense involving moral turpitude**, or any other offense involving a criminal breach of fiduciary duty, five years.

b. After expiration of the time periods specified in paragraph "a", an application shall be considered by the commission pursuant to subsection 7 and may be denied on the grounds of the conviction. An applicant may request a hearing pursuant to section 543B.19 in the event of a denial.

c. For purposes of this section, "convicted" means a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States, or in any foreign jurisdiction.

Another change involves 543B.15(10) as it relates to the number of days an applicant has to submit their application upon completion of a criminal history background check. The change extends the time limit to 210 days. Again, the change made is in bold type and underlined:

10. An applicant for an initial real estate broker's or

salesperson's license shall be subject to a national criminal history check through the federal bureau of investigation. The commission shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the real estate commission. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the **two hundred ten** calendar days prior to the date the license application is received by the real estate commission, the commission shall reject and return the application to the applicant. **The commission shall process the application but hold the delivery of the license until the background check is complete.** The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

543B.29 has several changes, many of which are organizational. However, 543B.29(4) adds the following major addition:

1. A license to practice the profession of real estate broker and salesperson may be revoked or suspended when the licensee is guilty of **any** of the following acts or offenses:
 - a. Fraud in procuring a license.
 - b. Professional incompetency.
 - c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
 - d. Habitual intoxication or addiction to the use of drugs.
 - e. Conviction of an offense included in section 543B.15, subsection 3. For purposes of this section, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, guilty plea, deferred judgment, or other finding of guilt is conclusive evidence.
 - f. Fraud in representations as to skill or ability.
 - g. Use of untruthful or improbable statements in advertisements.
 - h. Willful or repeated violations of the provisions of this **chapter**.

- i. Noncompliance with insurance requirements under section 543B.47.
 - j. Noncompliance with the trust account requirements under section 543B.46.
 - k. Revocation of any professional license held by the licensee in this or any other jurisdiction.
2. The revocation of a broker's license shall automatically suspend every license granted to any person by virtue of the person's employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. The new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same license period in which the original license was granted.
 3. A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have the broker's or salesperson's license revoked or suspended for violations of this section or section 543B.34, except subsections 4, 5, 6 and 9, with respect to that property.
 4. **A real estate broker's or salesperson's license shall be revoked following three violations of this section or section 543B.34 within a three-year period.**

The last major change is found in 543B.54. This chapter involves the real estate education fund, and adds paragraph 4:

4. Twenty-five dollars per license from fees deposited for each real estate salesperson's license and each broker's license shall be distributed and are appropriated to the real estate commission for the purpose of establishing and maintaining a program to provide grants to community colleges and other colleges and universities in the state providing programs under this section and using the curriculum maintained by the commission. Grants shall be awarded by a grant committee established by the real estate commission. The committee shall consist of seven members: two members of the commission, four members **appointed by** the Iowa association of realtors, and one member of the general public. The commission shall promulgate rules, **in consultation with the Iowa association of realtors**, relating to the organization and operation of the committee, which shall include the term of membership, and establishing standards for awarding grants. The members of the committee may be reimbursed for actual and necessary expenses incurred in the performance of their duties but shall not receive a per diem payment.

At the time of this writing, the Commission and the Assistant Attorney General are in the process of reviewing the above changes. Subsequent communications will provide additional information when it becomes available.

DISCIPLINARY ACTIONS

Case No. 08-008

Jeanie A. Jones
Applicant

Iowa City, IA.

The Commission charged Jones, an applicant, with Count I:
Failing to accurately disclose her criminal history on her application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Jones did not contest that she failed to accurately disclose her criminal history, and agreed to resolve the charge with a Consent Agreement. She was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and she agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-009

Patrick M. Thiessen
Applicant

Tama, IA.

The Commission charged Thiessen, an applicant, with Count I:
Failing to accurately disclose his criminal history on his application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Thiessen did not contest that he failed to accurately disclose his criminal history, and agreed to resolve the charge with a Consent Agreement. He was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and he agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-032

Alisoun E. Ganoe
Applicant

Clive, IA.

The Commission charged Ganoe, an applicant, with Count I:
Failing to accurately disclose her criminal history on her application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Ganoe did not contest that she failed to accurately disclose her criminal history, and agreed to resolve the charge with a Consent Agreement. She was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and she agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-239

KKI, LLC.
Firm (F05000)

Dakota Dunes, S.D.

The Commission charges KKI, LLC, a firm, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

KKI, LLC did not admit to the allegation but agreed to resolve the charge with a Settlement Agreement. They were ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-290

Leon Van Egdom
Broker (B33862)

Inactive

The Commission charged Van Egdom, a broker, with Count I:
a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Van Egdom was a licensed active broker at the time of the complaint. Van Egdom admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty prior to reactivation or reinstatement of his license in the event of its expiration, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-010

Eugene Meade
Broker (B05555)

Coralville, IA.

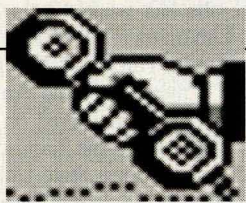
The Commission charges Meade a broker, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

REAL ESTATE

Iowa Professional Licensing Bureau Newsletter



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to our Website
<http://www.state.ia.us/irec>



For fast information, call us direct

For more information about the Real Estate Commission please contact us regarding the following:

- Education:** Toni Bright
515-281-7468
toni.bright@iowa.gov
- Trust Account Auditor:** TBD
515-281-5596
- Licensing Specialist:** Dana Klisares
515-281-7393
dana.klisares@iowa.gov
- Background Coordinator:** Sandy Malek
515-281-7382
sandy.malek@iowa.gov
- Prof. Licensing Investigator:** Jeff Evans
515-281-7361
jeff.evans@iowa.gov
- Executive Officer:** Dave Batts
515-281-7397
david.batts@iowa.gov

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NATURAL SOLUTIONS
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Continuing education requirements for December 2008 renewals

While the opportunity to renew is not yet available, this article is to aid those individuals who are up for renewal in December. Now is the time to make sure you have the correct hours completed.

IMPORTANT: Your continuing education **MUST** be completed prior to January 1, 2009. You **DO NOT** have a 30-day grace period for completing your education. If you do not have the required number of hours for an active status you need to renew to the inactive status until you have the required education completed.

Brokers:

- 8 hrs. Law Update
- 4 hrs. Ethics
- 24 hrs. Electives

Salespersons:

First time renewals for salespersons (not available in home study)

- 12 hrs. Buying Practices
- 12 hrs. Listing Practices
- 12 hrs. Developing Professionalism and Ethical Practices

All subsequent renewals (18 hours may be completed by home study):

- 8 hrs. Law Update
- 4 hrs. Ethics
- 24 hrs. Electives

Brokers and salespersons can, at any time after July 1 of the year of renewal, take and pass the appropriate licensing exam **instead of** completing the required continuing education. You must contact the Commission's office to obtain an authorization letter for admittance to take the exam. This authorization letter must be received by the licensee prior to arriving at the testing site. You will **not** be allowed to take the exam without the authorization letter from the Commission. Please submit your written request for an authorization letter by contacting Dana at dana.klisares@iowa.gov or fax at 515-281-7411.

If your license is inactive or you wish to change your status from active to inactive, you **must** still renew or your license will expire. To renew inactive, you are **NOT** required to complete the continuing education or carry E&O insurance, but, the licensing fee **must** be paid or your license will expire.

From the Auditor's Corner.....



Evans

Here are some tips and suggestions:

- 1. Broker's Equity.** In regards to Broker's Equity (or known to some as "Personal Funds"). When establishing a real estate trust account, up to \$500 in personal funds may be deposited into the trust account. These funds are to be used for the accounting of transaction fees (monthly service charges, check printing charges, wire fees, NSF charges, etc.) assessed against the trust account. These fees must be posted to both the Broker's Equity Individual Sub-ledger account and the General Ledger immediately after being notified by the bank that the fee was assessed. All deposits and disbursements from Broker's Equity should be posted immediately to the General Ledger and the Broker's Equity Sub-ledger. Broker's Equity should never show a negative balance and should be tracked on a timely basis.
- 2. Interest.** When establishing a Trust Account the Iowa Real Estate Commission requires that the Trust Account shall be interest-bearing. The amount of interest remitted will be all interest earned less the service charge for maintaining an interest account

and the charge for remitting the interest to the state. Usually, the service charge is a flat fee. Other service charges like deposits, check clearing and check printing are the broker's expense and shall come out of the Broker's Personal Funds Account.

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 - a. Fraud in procuring a license.
 - b. Professional incompetency.
 - c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
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 - g. Use of untruthful or improbable statements in advertisements.
 - h. Willful or repeated violations of the provisions of this **chapter**.

- i. Noncompliance with insurance requirements under section 543B.47.
 - j. Noncompliance with the trust account requirements under section 543B.46.
 - k. Revocation of any professional license held by the licensee in this or any other jurisdiction.
2. The revocation of a broker's license shall automatically suspend every license granted to any person by virtue of the person's employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. The new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same license period in which the original license was granted.
 3. A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have the broker's or salesperson's license revoked or suspended for violations of this section or section 543B.34, except subsections 4, 5, 6 and 9, with respect to that property.
 4. **A real estate broker's or salesperson's license shall be revoked following three violations of this section or section 543B.34 within a three-year period.**

The last major change is found in 543B.54. This chapter involves the real estate education fund, and adds paragraph 4:

4. Twenty-five dollars per license from fees deposited for each real estate salesperson's license and each broker's license shall be distributed and are appropriated to the real estate commission for the purpose of establishing and maintaining a program to provide grants to community colleges and other colleges and universities in the state providing programs under this section and using the curriculum maintained by the commission. Grants shall be awarded by a grant committee established by the real estate commission. The committee shall consist of seven members: two members of the commission, four members **appointed by** the Iowa association of realtors, and one member of the general public. The commission shall promulgate rules, **in consultation with the Iowa association of realtors**, relating to the organization and operation of the committee, which shall include the term of membership, and establishing standards for awarding grants. The members of the committee may be reimbursed for actual and necessary expenses incurred in the performance of their duties but shall not receive a per diem payment.

At the time of this writing, the Commission and the Assistant Attorney General are in the process of reviewing the above changes. Subsequent communications will provide additional information when it becomes available.

DISCIPLINARY ACTIONS

Case No. 08-008

Jeanie A. Jones
Applicant

Iowa City, IA.

The Commission charged Jones, an applicant, with Count I:
Failing to accurately disclose her criminal history on her application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Jones did not contest that she failed to accurately disclose her criminal history, and agreed to resolve the charge with a Consent Agreement. She was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and she agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-009

Patrick M. Thiessen
Applicant

Tama, IA.

The Commission charged Thiessen, an applicant, with Count I:
Failing to accurately disclose his criminal history on his application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Thiessen did not contest that he failed to accurately disclose his criminal history, and agreed to resolve the charge with a Consent Agreement. He was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and he agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-032

Alisoun E. Ganoe
Applicant

Clive, IA.

The Commission charged Ganoe, an applicant, with Count I:
Failing to accurately disclose her criminal history on her application for a license to practice real estate in the State of Iowa. See Iowa Code section 543B.15(5).

Disciplinary Action:
Informal Settlement

Ganoe did not contest that she failed to accurately disclose her criminal history, and agreed to resolve the charge with a Consent Agreement. She was ordered to pay a civil penalty in the amount of \$500 within thirty (30) days of the acceptance of this agreement, and she agreed to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-239

KKI, LLC.
Firm (F05000)

Dakota Dunes, S.D.

The Commission charges KKI, LLC, a firm, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

KKI, LLC did not admit to the allegation but agreed to resolve the charge with a Settlement Agreement. They were ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-290

Leon Van Egdom
Broker (B33862)

Inactive

The Commission charged Van Egdom, a broker, with Count I:
a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Van Egdom was a licensed active broker at the time of the complaint. Van Egdom admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty prior to reactivation or reinstatement of his license in the event of its expiration, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-010

Eugene Meade
Broker (B05555)

Coralville, IA.

The Commission charges Meade a broker, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

from page 19/Disciplinary actions

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Meade admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-139 **James D. Robertson** **Inactive**
Salesperson (56608)

The Commission charged Robertson, a salesperson, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Robertson was a licensed active salesperson at the time of the complaint. Robertson admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty prior to reactivation or reinstatement of his license in the event of its expiration, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-245 **Michael A. Pagliai** **Ankeny, IA.**
Broker (B26336)

The Commission charges Pagliai a broker, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Pagliai admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-021 **Lora Bunn** **State Center, IA.**
Unlicensed

The allegation brought before the Commission asserted that the Respondent was practicing real estate in the State of Iowa, by acting as a property manager, without a license in violation of Iowa Code §§ 543B.1, 543B.3, and 543B.7(2007).

Disciplinary Action
Cease and Desist Order by Agreement

Bunn has not previously found to have acted in violation of Iowa Code § 543B.1. Bunn does not admit to holding herself out as a real estate broker, broker associate, or salesperson. Bunn acknowledges that she is prohibited from practicing real estate in the State of Iowa without a license issued pursuant to Iowa Code chapter 543B unless otherwise exempted by law. Bunn also agrees that she will not in the future practice real estate in the State of Iowa without a license.

Case No. 07-302 **The Referral Company** **West Des Moines, IA.**
Firm (F03016)

The Commission charged The Referral Company, a firm, with Count I:
Failing to diligently exercise reasonable skill and care in supervising a salesperson by:

- a. Allowing the salesperson employed by the Respondent to practice real estate in the State of Iowa without complying with mandatory errors and omissions insurance requirements. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), 543B.62(3)(b)(2007), and 193E Iowa Admin. Code §§ 7.11, 18.2(5), 18.14(5)(m), and 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

The Referral Company admitted to the allegation and agreed to resolve the charge with a Settlement Agreement. They were ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-031 **Cheryl Van Fleet** **Cedar Rapids, IA.**
Inactive

- The Commission charged Van Fleet, a salesperson, with Count I:
- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Van Fleet was a licensed active salesperson at the time of the complaint. Van Fleet admits to the allegation and agreed to resolve the charge with a Settlement Agreement. She was ordered to pay a \$1000 civil penalty prior to reactivation or reinstatement of her license in the event of its expiration, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-016 **Donald G. McCartie** **Oskaloosa, IA.**
Salesperson (S43799)

The Commission charges McCartie, a salesperson, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3) by:

- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

McCartie admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 07-282 **Steven R. Smith** **Des Moines, IA.**
Broker (B14903)

The Commission charged Smith, a broker with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3), 543B.34, 543B.56(2007) by:

- a. Allowing occupancy of a property prior to closing. See Iowa Code §§ 543B.34(8) & (11), 543B.56(1)(a) & (b), and 193 E Iowa Admin Code § 18.14(5)(s).

Disciplinary Action:
Informal Settlement

Smith admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$2500 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

07-224 **Kent M. York** **Des Moines, IA.**
Salesperson (S34939)

The Commission charges York, a salesperson, with Count I:
Engaging in a practice harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(3), 543B.34, 543B.56(2007) by:

- a. Failing to provide a seller property disclosure for a property sold by the Respondent. See Iowa Code §§ 543B.56(1)(a), (b) & (c), 558A.2, and 193E Iowa Admin Code §§ 14.1(2) & (3) and 19.14(5)(s).
- b. Failing to disclose in writing a licensee's interest in property being sold by the Respondent. See 193E Iowa Admin Code §§ 7.8(543B) and 18.145(5)(s), and
- c. Failing to exercise reasonable care and skill in the preparation and presentation of a purchase agreement and/or required disclosures. See 543B Iowa Code §§ 543B.29(2), 543B.34(8), 543B.56A(1) & (2), and 193E Iowa Admin Code §§ 7.8(543B), 7.8(2), 12.3(1)(b), 12.3(1)(c)(2), 12.4(1)(b), 12.4(1)(c)(2), 12.5(1)(b), and 18.14(5)(s).

Disciplinary Action:
Informal Settlement

York admits to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

Case No. 08-039 **Stone Ridge Real Estate, LLC** **Inactive**
Firm (F05023)

- The Commission charged Stone Ridge Real Estate, LLC, a firm, with Count I:
- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Stone Ridge Real Estate, LLC was a licensed active firm at the time of the complaint. Stone Ridge Real Estate, LLC admits to the allegation and agreed to resolve the charge with a Settlement Agreement. They were ordered to pay a \$1000 civil penalty prior to reactivation or reinstatement of their license in the event of its expiration, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

07-275 **Caleb Anthony** **North English, IA.**
Broker (B37750)

- The Commission charged Anthony, a broker, with Count I:
- a. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Anthony admitted to the allegation and agreed to resolve the charge with a Settlement Agreement. He was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

08-020 **Inga Brown** **Des Moines, IA.**
Salesperson (S44773)

- The Commission charged Brown, a salesperson, with Count I:
- c. Failing to comply with mandatory Errors and Omission insurance requirement. See Iowa Code §§ 543B.29(3) & (9), 543B.47(1), 543B.47(6), and 193E Iowa Admin Code §§ 18.2(5), 18.14(5)(s), 19.6(6) & (7).

Disciplinary Action:
Informal Settlement

Brown admitted to the allegation and agreed to resolve the charge with a Settlement Agreement. She was ordered to pay a \$1000 civil penalty within thirty (30) days of the acceptance of this Agreement, and to fully comply with all pertinent orders of the Commission and the statutes and rules regulating the practice of real estate.

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