

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

In the Matter of the Appraiser License of Allan Kostrzewski
License No. 20364393

CONSENT ORDER

TO: Allan Kostrzewski
14724 504th St
Verndale, Minnesota 56481

Commissioner of Commerce Steve Kelley (Commissioner) has determined as follows:

1. The Commissioner has advised Allan Kostrzewski (Respondent) that he is prepared to commence formal action pursuant to Minn. Stat. § 45.027 (2018), and other applicable law, based on the following allegations:

a. Respondent failed to clearly and conspicuously state a hypothetical condition. Respondent erroneously appraised a portion of an existing parcel, which did not legally exist, as a separate tract of land. By failing to disclose this hypothetical condition, Respondent is in violation of the Uniform Standards of Professional Appraisal Practice (USPAP) Scope of Work Rule, Standard Rule (SR) 1-2 (g), SR 2-1 (a - c), 2-2 (a)(xiii) (2018), Minn. Stat. § 82B.20 subd. 2 (5), (6), (7), and Minn. Stat. § 82B.195 subd. 2 (12) (2018).

b. Respondent inaccurately considered and misrepresented elements of the subject property. Respondent represented the parcel number for the existing parcel as being the parcel number for the hypothetical tract of land that was intended to be subdivided. In addition, Respondent failed to accurately consider roads and ditch,

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wooded acres, and cropland possessed by the hypothetical tract of land. By inaccurately considering and misrepresenting the subject property, Respondent is in violation of USPAP Scope of Work Rule, SR 1-2 (e)(i), SR 2-2 (a)(iii) (2018) and Minn. Stat. § 82B.20 subd. 2 (7), (13) (2018).

- c. Respondent inappropriately reported assessment data of the proposed subject property. As the proposed property had not be subdivided, there was no assessor or taxation data established. Respondent estimated such data without indicating it was his own estimation of such data. Communicating assignment results with the intent to mislead is a violation of USPAP Ethics Rule (2018) and Minn. Stat. § 82B.195 subd. 3 (1)(i) (2018).
- d. Respondent failed to provide a definition of value or cite the source of that definition. Failure to provide a definition of value or citing the source of that definition is a violation of the USPAP Scope of Work Rule, SR 1-1 (a), SR 1-2 (c), SR 2-2 (a)(v) (2018) and Minn. Stat. § 82B.195 subd. 1, § 82B.20 subd. 2 (5), (6), (7) (2018).
- e. Respondent failed to provide a value opinion that was supported by available market data. As indicated above, the subject property was not accurately described or characterized. In developing an opinion on the subject property as described and characterized in the appraisal report, the resulting value conclusion could not be attributed as an indication of the market's reaction to the subject property as proposed. Failing to provide a valuation that is credibly supported by the market is a violation of USPAP SR 1-1 (a) (2018), Minn. Stat. § 82B.195 subd. 3 (1)(viii), as well as § 82B.20 subd. 2 (13) (2018).

2. Respondent acknowledges that he has been advised of his rights to a hearing in this matter, to present argument to the Commissioner, and to appeal from any adverse determination after a

hearing. Respondent hereby expressly waives those rights. Respondent further acknowledges that he has been represented by legal counsel throughout these proceedings or has waived that right.

3. Respondent has agreed to informal disposition of this matter without a hearing as provided under Minn. Stat. § 14.59 (2018) and Minn. R. 1400.5900 (2017).

4. For purposes of Minn. Stat. § 16D.17 (2018), Respondent expressly waives his right to any notice or opportunity for a hearing on any civil penalty imposed by the Commissioner. Further, Minn. Stat. § 16D.17 (2018) allows the Commissioner to file and enforce the civil penalty imposed by this Order as a judgment against Respondent in district court without further notice or additional proceedings.

5. The civil penalty and/or any resulting judgment arising from this Order will be non-dischargeable in any bankruptcy proceeding. *See* 11 U.S.C. 523 (a)(7) (2018) ("A discharge under section 727, 1141, 1228(a), 1228(b) or 1328(b) of this title does not discharge an individual debtor from any debt... to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss, other than a tax penalty...").

6. The following Order is in the public interest.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minn. Stat. Ch. 45 (2018) that:

A. Respondent's Real Property Appraiser license shall be suspended for a period of one (1) month from the date this order is fully executed by signature by or on behalf of the Commissioner;

B. Respondent complete the following corrective education courses by the end of the suspension period. These corrective courses cannot be used for any of Respondent's continuing education requirements. Respondent must provide proof of completion within thirty days of completing the course work;

a. 15 hour USPAP course;

b. The Appraisal Foundation Corrective Education Course: Residential Report Writing vs. Form Filling; and

c. The Appraisal Foundation Corrective Education Course: Appraiser Self Protection:
Documentation and Record Keeping.

C. Respondent shall cease and desist from violating any laws, rules, or orders related to the duties and responsibilities entrusted to the Commissioner under Minnesota Statute Chapters 45 and 82B;

D. Respondent will cease the supervision of Trainee appraiser(s) until such time as Respondent meets the requirements for supervision as described in Minn. Stat § 82B.094; and

E. Respondent shall pay all investigative costs in the amount of \$540 pursuant to Minn. Stat. § 45.027, subd. 1(8) (2018).

This Order shall be effective upon signature by or on behalf of the Commissioner.

Date: 04/28/2020

STEVE KELLEY
Commissioner



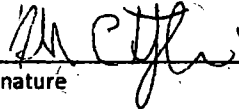
MATTHEW VATTER
Assistant Commissioner of Enforcement
Minnesota Department of Commerce
85 Seventh Place East, Suite 280
St. Paul, MN 55101
(651) 539-1600

CONSENT TO ENTRY OF ORDER

The undersigned states that he has read this Consent Order; that he knows and fully understands its contents and effect; that he has been advised of the right to a hearing in this matter, to present argument to the Commissioner, and to appeal from any adverse determination after a hearing and expressly waives those rights. Respondent further acknowledges that he has been represented by legal counsel throughout these proceedings, or has been advised of his right to be represented by legal counsel, which right he hereby expressly waives; and that he consents to entry of this Order by the Commissioner. It is further understood that this Consent Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either express or implied.

Allan Kostrzewski

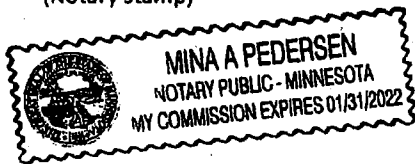
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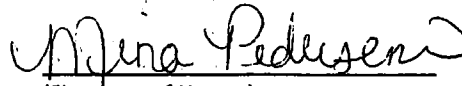
By: 
Signature

STATE OF Minnesota
COUNTY OF Becker

Signed or attested before me on 4-6-2020 (Date).

(Notary stamp)




(Signature of Notary)

My Commission expires:

1/31/22