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State of Minnesota
Dept of Commerce

OCT 10 2024

Rec'd \$ 3107.50

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Real Property Appraiser license of Kurt H. Struss
License No.: 20362966

CONSENT ORDER

TO: Kurt H. Struss
2864 144th Avenue NE
Ham Lake, MN 55304

Commissioner of Commerce Grace Arnold (Commissioner) has determined as follows:

1. The Commissioner has advised Kurt H. Struss (Respondent) that she is prepared to commence formal action pursuant to Minn. Stat. § 45.027 (2022), and other applicable law, based on the following allegations pertaining to an appraisal report completed on a property in Savage, Minnesota:

- a. Respondent made approximately forty (40) changes between appraisal reports in a client request to modify a Scope of Work. Respondent changed his original report from a "subject to repairs" to an "as is" appraisal report. Respondent changed numerous items in developing his "as is" appraisal which included changes to adjustment amounts, adjusted values, and he provided a new opinion of value. In the newly revised "as is" appraisal report, Respondent failed to identify the changes made and he failed to report why the changes were necessary. This conduct violates the Uniform Standards of Professional Appraisal Practice (USPAP) Standard Rule (SR) 1-1 (a), (b), (c), 2-1 (a), (b), 2-2 (a) (x) (5) (2020) and Minn. Stat. §§ 82B.195 subd. 2 (5) and 82B.20 subd. 2 (6), (7) (2022).
- b. Respondent failed to provide market data to support his opinion of market conditions in either his appraisal or work file. Failing to provide market data and not properly analyzing the market conditions is in violation of USPAP SR 1-1 (a), 1-3 (a) (v), 2-1 (a),

(b), 2-2 (a) (x) (1) (2020) and Minn. Stat. § 82B.20 subd. 2 (6), (7) (2022).

c. Respondent failed to provide a credible sales comparison approach to value because he failed to:

- i. Support, with market data, the reasons it was necessary to expand his market area to locate comparable sales. This deficiency created a sales comparison approach to value that lacked market support. In addition, Respondent failed to analyze the differences in locations between the subject property and his comparables that were located in competing cities and different market areas;
- ii. Analyze or summarize major characteristic differences between his comparables and the subject;
- iii. Use market data to support that the adjustments made were necessary; and
- iv. Use market data to support how the adjustment amounts were developed.

Respondent determined his value opinion by relying on his sales comparison approach to value. Because Respondent failed to provide a credible and supportable sales comparison approach to value, Respondent's value opinion is not considered credible in violation of USPAP SR 1-4 (a), 1-6 (a), 2-1 (a), (b), 2-2 (a)(x)(5) (2020) and Minn. Stat. § 82B.20 subd. 2 (6), (7) (2022).

d. Respondent's work file failed to contain the necessary data or documents to support his opinions or conclusions in violation of USPAP Record Keeping Rule, Ethics Rule (2020) and Minn. Stat. § 82B.071 subd. 2 (2022).

2. Respondent acknowledges that they have 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. Respondent hereby expressly waives those rights. Respondent further acknowledges that they have 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 (2020) and Minn. R. 1400.5900 (2021).

4. For purposes of Minn. Stat. § 16D.17 (2022), Respondent expressly waives the right to any notice or opportunity for a hearing on any civil penalty imposed by the Commissioner. Further, Minn. Stat. § 16D.17 (2020) 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) ("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 (2022) that:

A. Respondent shall pay a civil penalty in the amount of \$5,000 to the State of Minnesota. The Commissioner has stayed \$2,500 of this penalty. Respondent must pay \$2,500 at the time the Consent to Entry of Order is signed. The stayed portion of the civil penalty may be lifted if Respondent commits further violations of any law, rule, or order related to the duties and responsibilities entrusted to the Commissioner. If the Commissioner determines that Respondent has committed further violations of any law, rule, or order over which the Commissioner has authority, the stay shall be lifted and the stayed portion of the penalty shall become effective in addition to any additional administrative action the Commissioner deems appropriate for the new violation(s). If the Commissioner seeks to lift the stay, Respondent may request a hearing to challenge the factual basis for lifting the stay, but may not challenge the amount of the stayed penalty. If the stay has not been lifted within three years of the effective date of this Consent Order, the stayed portion of the civil penalty will be vacated;

B. Respondent shall complete the following corrective education course provided by the

Appraisal Foundation:

- a. Appraiser Self Protection: Documents and Record Keeping;
- b. Missing Explanations; and
- c. Sales Comparison Approach Reconciliation.

Courses must be completed within 90 days of the effective date of this Consent Order. Course completion certificates must be supplied to the Department within 30 days of completing and passing course requirements;

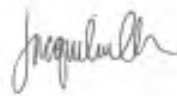
C. Respondent shall cease and desist from violating any laws, rules, or orders related to the duties and responsibilities entrusted to the Commissioner under Minnesota Statute Chapters 45 and 82B; and

D. Respondent shall pay all investigative costs in the amount of \$607.50 at the time the Consent to Entry of Order is signed pursuant to Minn. Stat. § 45.027, subd. 1(8) (2022).

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

Date: October 17, 2024

GRACE ARNOLD
Commissioner



JACQUELINE OLSON
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 they have read this Consent Order; that the undersigned knows and fully understands its contents and effect; that the undersigned 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 Respondent has been represented by legal counsel throughout these proceedings, or has been advised of the right to be represented by legal counsel, which right Respondent hereby expressly waives; and that Respondent 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.

Kurt H. Struss

Date: 10/7/2024

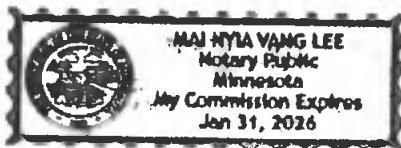
By: 
(Signature)

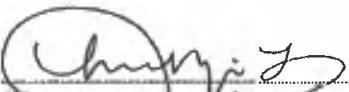
STATE OF Minnesota

COUNTY OF Anoka

Signed or attested before me on October 7th 2024 (Date).

(Notary stamp)




(Signature of Notary)

My Commission expires:

01/31/2024