

STATE OF MAINE  
BOARD OF REAL ESTATE APPRAISERS

IN RE: )  
 )  
 JAMIE L. HERRING ) CONSENT AGREEMENT  
 )  
 Complaint No. 2008-REA-4473 )

INTRODUCTION

This document is a Consent Agreement regarding disciplinary action against the license of Jamie L. Herring (“Mr. Herring”) to practice real estate appraisal in the State of Maine. The parties to this Consent Agreement are: Mr. Herring, the State of Maine Board of Real Estate Appraisers (“the Board”), and the Office of the Attorney General (“the Attorney General”). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5-A).

FACTS

1. Mr. Herring was licensed by the Board as a trainee real property appraiser, license number RA2260, from June 15, 2005, until November 6, 2007.
2. On November 6, 2007, Mr. Herring became licensed as residential real property appraiser, license no. AP2663.
3. At all times relevant hereto, Mr. Herring was practicing real estate appraisal for Advantage Appraisal, Inc. located in Lincoln, Maine.
4. This Consent Agreement pertains to Mr. Herring’s involvement with an appraisal report prepared by him, on the property located at 318 Pritham Avenue in Greenville Junction, Maine, which appraisal report Angel H. Torrey, license number AP1863, signed as the supervisory appraiser.

5. On or about March 1, 2007, Mr. Herring performed an appraisal for Key Bank, N.A. on a new construction to be built on the property located on the corner of Pine Street and Pritham Avenue in Greenville Junction, Maine.
6. Mr. Herring signed the appraisal report on March 7, 2007, and Ms. Torrey signed as the supervisory appraiser on March 7, 2007.
7. The proposed new construction on the subject property consisted of a ranch style building with a loft and walkout basement on a 0.25 acre in-town lot.
8. The appraisal report concluded that the value of the subject property when complete would be \$360,000.00.
9. The appraisal report contained numerous errors and deficiencies including the following:
  - a. The appraisal report improperly defined and characterized the neighborhood of the subject property;
  - b. The appraisal report used as comparable sales properties that were materially different from the subject property in terms of location, lot size, and building design without appropriately accounting for these differences or properly adjusting for these differences in the sales comparison grid;
  - c. The appraisal report failed to disclose that comparable #1, which sold for \$360,000.00, included 289 feet of water frontage;
  - d. The appraisal report obfuscated the locational differences between the subject property and the comparable sales by using a large scale location map and by inaccurately designating the locations of the comparable sales;

- e. The appraisal report understated the distances between the subject property and the comparable sales; and
  - f. The appraisal report failed to adequately support the indicated cost of \$350,560.00 for the site improvements in the cost approach when the contract for construction of the improvements was only \$247,000.00.
10. On or about April 6, 2007, Advantage Appraisal received a request to perform an appraisal from Ken Kelley at First Horizon Home Loans on the property located at 318 Pritham Avenue in Greenville Junction, Maine with an instruction that this was a "RUSH!" request.
11. On or about April 11, 2007, Mr. Herring and Ms. Torrey modified the appraisal report that had been prepared for Key Bank so that the effective date was April 6, 2007, and the signature dates were April 11, 2007, and then transmitted the appraisal report to Ken Kelley at First Horizon Home Loans.
12. Neither Mr. Herring nor Ms. Torrey obtained consent from Key Bank before disclosing this appraisal report to Ken Kelley and First Horizon Home Loans.
13. On or about March 26, 2008, the Board received a complaint from the homeowner, pertaining to Mr. Herring's involvement with the appraisal reports on the property located at 318 Pritham Avenue in Greenville Junction, which the Board docketed as 2008-REA-4473.
14. At a meeting of the Board on December 2, 2008, the Board voted to set this matter for hearing and to offer Mr. Herring this Consent Agreement in order to resolve complaint 2008-REA-4473 in lieu of going to hearing.

15. Absent acceptance of this Consent Agreement by Mr. Herring by signing and dating it and returning it to Cathy Neumann, Complaint Coordinator, 35 State House Station, Augusta, Maine 04333-0035 on or before January 5, 2009, the Board will resolve the complaint by scheduling the matter for an adjudicatory hearing.

#### COVENANTS

16. Mr. Herring acknowledges and admits to the facts as stated above and admits that such conduct subjects him to discipline as follows:
- a. Pursuant to 32 M.R.S. § 14014-A(7) by failing, without good cause, to exercise reasonable diligence in developing the subject appraisal, preparing the appraisal report, and communicating the appraisal;
  - b. Pursuant to 32 M.R.S. § 14014-A(8) by committing negligence and demonstrating incompetence in developing the subject appraisal, preparing the appraisal report, and communicating the appraisal;
  - c. Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) by violating a Board rule, specifically Rule chapter 240 § 1 and the following Uniform Standards of Professional Appraisal Practice (USPAP):
    - i. The Ethics Rule on Confidentiality by disclosing appraisal results to someone other than the client without the client's consent;
    - ii. The Ethics Rule on Conduct by communicating assignment results for the subject appraisal in a misleading manner;

- iii. Standards Rule 1-1(a) by failing to understand and correctly employ the recognized methods and techniques that were necessary to produce a credible appraisal of the subject property;
- iv. Standards Rule 1-1(b) by committing substantial errors of omission and commission that significantly affected the subject appraisal; and
- v. Standards Rule 1-1(c) by rendering appraisal services in a careless and negligent manner in preparing the subject appraisal report.

17. As discipline for the conduct admitted in paragraph 16 above, Mr. Herring agrees to accept the following DISCIPLINARY ACTION:

- a. A REPRIMAND;
- b. A LICENSE SUSPENSION for a period of ninety (90) days, which period of suspension shall commence on the date of final execution of this Consent Agreement,
- c. Payment of a CIVIL PENALTY in the amount of one thousand five hundred dollars (\$1,500.00), which payment shall be made payable by check or money order to "Treasurer, State of Maine" and delivered to Cathy Neumann, Complaint Coordinator, 35 State House Station, Augusta, Maine 04333-0035, within thirty (30) days of the date of final execution of this Consent Agreement; and
- d. ADDITIONAL PROFESSIONAL EDUCATION consisting of a 30-hour Basic Appraisal course (either Basic Appraisal Principles or Basic Appraisal Procedures) with examination, for which Mr. Herring shall enroll in, complete, pass the examination for, and submit to the Board proof of successful completion

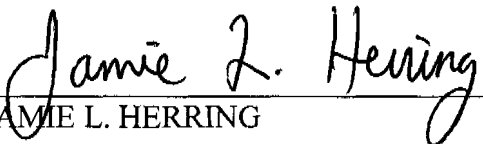
within one hundred eighty (180) days of the date of final execution of this Consent Agreement. This additional professional education shall not count towards the biennial continuing education requirements for licensure.

18. Violation of any of the terms or conditions of this Consent Agreement shall constitute grounds for further discipline, including modification, suspension, or revocation of licensure, and the denial of re-licensure.
19. Pursuant to 10 M.R.S. § 8003(5-A) the Board and Mr. Herring agree that in the event that Mr. Herring violates any of the terms or conditions of this Consent Agreement, the Board may issue an order suspending, revoking, or modifying his license, or denying his re-licensure.
20. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto.
21. The Board and the Attorney General shall have access to Mr. Herring's practice records relating to this Consent Agreement.
22. The Board and the Attorney General may communicate and cooperate regarding Mr. Herring's practice or any other matter relating to this Consent Agreement.
23. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.
24. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.
25. The Board and Mr. Herring agree that no further agency or legal action will be initiated against him by the Board for the specific violations admitted to in paragraph 16, except or

unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may, however, consider the conduct described above as evidence of a pattern of misconduct in the event that other allegations are brought against Mr. Herring. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Mr. Herring's license.

26. Mr. Herring acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

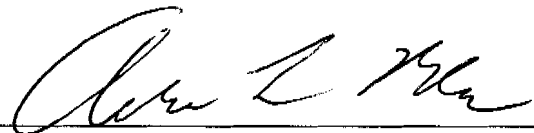
DATED: 12/30/2008

  
\_\_\_\_\_  
JAMIE L. HERRING

DATED: 1/6/09

  
\_\_\_\_\_  
WILLIAM DOBROWOLSKI, Chairperson  
Maine Board of Real Estate Appraisers

DATED: 1/6/2009

  
\_\_\_\_\_  
ANDREW L. BLACK  
Assistant Attorney General