

**BEFORE THE WEST VIRGINIA REAL ESTATE
APPRAISER LICENSING AND CERTIFICATION BOARD**

IN THE MATTER OF:

**EDWARD MCDONALD,
Certified General Appraiser License No. 015.**



CONSENT DECREE

Now comes Respondent, Edward McDonald (hereinafter "Respondent"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sharron L. Knotts, its Executive Director, and by its counsel, Gregory G. Skinner, Assistant Attorney General, for the purpose of resolving Board Complaint No. 04-006, against Respondent. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent hereby agrees and stipulates to the Findings of Fact and Conclusions of Law set forth in the instant Consent Decree concerning the proper disposition of this matter, and the Board, having approved such agreement, does hereby find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity created by W. Va. Code § 30-38-1, et seq., and is empowered to regulate, among other things, the conduct of licensed residential appraisers.
2. Respondent is a Certified General Appraiser licensed by the Board, holding license number 015.
3. Beverly Johnson was a real estate appraiser apprentice, holding apprentice permit number 10374, by and through the Board.

4. Respondent, during all times pertinent to Board Complaint Numbers 04-005 and 04-006, was the supervising appraiser to Johnson.

5. On or around December 1, 2003, Johnson submitted an application to the Board for licensure as a state licensed residential appraiser.

6. Among other things, Johnson submitted to the Board an experience log summarizing all appraisal work performed by Johnson under the supervision of Respondent.

7. In consideration of Johnson's application, the Board chose two appraisals at random from Johnson's experience log in which to review.

8. The Board chose a commercial appraisal of a townhouse rental unit located at Cole Avenue (Easy Street), Elkins, West Virginia, 26241, performed on or around November 14, 2003.

9. Respondent signed the appraisal report in his capacity of supervisor to Johnson.

10. Johnson claimed the appraisal report was intended for valuation purposes only.

11. The report, however, constituted an actual appraisal, and determined the value of the rental unit to be \$135,000.00 as of November 14, 2003.

12. As an appraisal report with a determined value, the report was deficient in that an incorrect form was utilized, and certain information and analysis required by West Virginia state law and the Uniform Standards of Professional Appraisal Practice was therefore lacking.

13. As a result of the Board's review of the above-referenced property, the Board requested additional appraisal reports and workfiles from Johnson for the following properties:

- a. Vision Automotive Group, Elkins, West Virginia;
- b. Vision Automotive Used Automobile Lot, Elkins, West Virginia;
- c. Route 219 South 4 Lane, Beverly, West Virginia;
- d. Main Street, Belington, West Virginia;
- e. Harrison Avenue, Elkins, West Virginia;
- f. Georgetown Road, Elkins, West Virginia;
- g. 5 Locust Avenue, Junior, West Virginia;
- h. Georgetown Road, Beverly, West Virginia;
- i. Becky's Creek, Huttonsville, West Virginia;
- j. Kelley Mountain Road, Elkins, West Virginia; and
- k. Route 2, Montrose, West Virginia.

14. Upon review of the above-referenced properties, the Board was concerned that Johnson failed to correctly utilize or perform the following appraisal functions: incorrect use of appraisal form(s); incorrect use and/or determination of the income approach; incorrect determination of lot size; incorrect use and/or determination of the cost approach; inadequate expression of the hypothetical condition and description of a property; improper adjustments performed; incorrect description of heating; and incorrect citation of zoning and sight improvements.

15. The supervising real estate appraiser is responsible for the content and accuracy of an appraisal report performed by an apprentice.

16. The supervising real estate appraiser has a duty to ensure an apprentice adequately and competently learns the profession of real estate appraising.

17. Respondent failed to provide adequate supervision, oversight and tutelage in regard to the work product of Johnson.

CONCLUSIONS OF LAW

1. Pursuant to Article 38 of Chapter 30 of the West Virginia Code, the Board is the State entity vested with the power to regulate real estate appraisers in the State of West Virginia.

2. The apprentice shall work under the supervision of a state licensed or state certified real estate appraiser. 190 C.S.R. §§2-11.6.a. and 2-11.7.d.

3. The appraiser supervisor shall at all times be responsible for and shall provide supervision of the work performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice and West Virginia Code § 30-38-1, et seq. 190 C.S.R. § 2-11.7.a.

4. Pursuant to W. Va. Code §§ 30-38-12(a)(7) and 30-38-13(b), the Board may revoke, suspend or refuse to renew the license or certificate or otherwise discipline an appraiser, or deny an application, for any violation of any section of this article, or rule of the Board.

5. Respondent, in his capacity as a real estate appraiser supervisor, failed to adequately supervise, provide oversight, and tutor Johnson, in her capacity as a real estate appraiser apprentice, as outlined above, in violation of W. Va. Code §§ 30-38-12(a)(7), 30-38-13(b), and 190 C.S.R. § 2-11.7.a.

CONSENT

Respondent, both in his individual capacity and as a certified general real estate appraiser, by the execution hereof, agrees to the following:

1. Respondent has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Respondent consents to the entry of the following Order affecting his conduct as a certified general real estate appraiser.

ORDER

On the basis of the foregoing, the Board hereby ORDERS as follows:

1. The Board hereby suspends Respondent's privileges to employ and/or supervise any real estate appraiser apprentice(s), for a period of two (2) years, where such suspension begins upon the effective date of the instant Consent Decree.

2. In the event Respondent violates the terms of this Consent Decree, and, subsequent to notice and hearing, the Commission so finds a violation, then, in such event, the events giving rise to this Consent Decree shall be considered in the determination of the kind and extent of sanctions to be subsequently imposed. Such possibility of enhancement shall be effective during the pendency of the instant restrictions placed upon Respondent's license subsequent to the entry of this Order.

AGREED TO BY:

Edward McDonald
EDWARD MCDONALD, Individually

6/15/04
DATE

ENTERED into the records of the Board this:

15 day of June, 2004.

WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: Sharon L. Knotts
SHARRON L. KNOTTS
EXECUTIVE DIRECTOR

7-6-04
DATE