

# NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

## Zoom/Teleconference call Meeting Minutes - June 28, 2022

Chairperson Timian called the meeting to order at 9:08 AM. Roll call was taken.

Board Members present online: Chairperson Tim Timian, Corey Kost, Brock DesLauriers, Matt Schlenvogt and Joe Sheehan

Staff Present: Jodie Campbell and David Campbell

Investigative Reviewer: Joe Ibach

Legal Counsel: Carl Karpinsky

**Proposed Rules:** Staff made revisions to the proposed Rules based on discussion from Board members at the 6/21/22 meeting. Staff drafted the Rules to mirror the Appraisal Qualifications Board (AQB) Criteria effective January 1, 2022. Board members questioned the definition of transaction value as written in the Criteria but decided no further revisions were required.

Corey Kost moved to approve the Rules as proposed. Brock DesLauriers seconded the motion. Chairman Timian called for the vote. Corey Kost, Brock DesLauriers, Matt Schlenvogt Joe Sheehan and Tim Timian all voted yes. The vote was unanimous. Motion carried.

**Case 218-186 and Case 218-187:** Chairman Timian opened discussion with comments. At the previous meeting of June 21, 2022, the Board heard varying opinions from three attorneys, leading to confusion as to how to proceed. From that discussion it appears the Board has two options: 1) offer the Weber's a settlement agreement, or 2) turn the matter of disciplinary action over to the administrative law judge. Mr. Jim Nicolai, Litigation Counsel for the Board drafted a Joint Stipulation. Mr. Timian indicated he is not in agreement with how the stipulation came to be as the Board did not request Mr. Nicolai to negotiate on the Board's behalf. Chairman Timian concluded by proposing the Board move forward by offering each of Weber's a settlement agreement.

Carl Karpinsky, Board Legal Counsel, indicated the joint stipulation is something the Board can consider. However, he confirmed that the Board still has the option to propose a settlement agreement.

Corey Kost interjected. For the record, as he has done in previous discussions of Cases 218-186 and 218-187, Corey will continue to recuse himself from discussion and voting. Matt Schlenvogt questioned whether a motion was in order. Chairman Timian requested a motion. Matt Schlenvogt moved to recuse Corey from discussion and voting on Case 218-186 and Case 218-187. Brock DesLauriers seconded the motion. Chairman Timian called for the vote. Joe Sheehan, Brock DesLauriers, Matt Schlenvogt and Tim Timian voted yes to the motion. Cory Kost abstained from voting. Motion carried.

Matt Schlenvogt requested clarification relative to the Weber's request for information on the previous disciplinary cases that were listed in the joint stipulation. Legal Counsel clarified that if the Board proposes an offer of settlement, none of the disciplinary cases would be relevant.

Mr. Karpinsky went on to discuss the Recommended Order from the Administrative Law Judge. In the Order, the Judge confirmed disciplinary action was in order but did not recommend any disciplinary actions. Therefore, the Order needs to be amended to address discipline. At the meeting of June 21, it was discussed how to bring in past disciplines. There appeared to be a misunderstanding between the attorneys as to how to accomplish this. The joint stipulation written by Mr. Nicolai would allow for additional documents and went on to list past Board disciplinary documents requested by Weber's Counsel. However, Mr. Nicolai did not consult with the Board on what documents the Board would like to include.

Chairman Timian again stated his position, to move forward and offer a settlement agreement. He looked to the other Board members for comment. Joe Sheehan commented, the reason the Board is here is for reconsideration, therefore it would be prudent to propose an offer of settlement. Other Board members were in agreement. If there is no further discussion Chairman called for a motion. Matt Schlenvogt requested discussion of the terms of the agreement. A brief discussion took place. Chairman Timian called for a motion.

Matt Schlenvogt moved to offer Jerry Weber a settlement agreement with the following terms:

- 1) 90-day suspension.
- 2) \$10,000 fine.
- 3) One-year probation; the appraiser must submit a monthly log of appraisal reports and the Board has the discretion to make a selection from the log to review for compliance with USPAP.
- 4) There must be no valid complaints filed against Mr. Weber within three years of signing the agreement. If there is a valid complaint filed against Mr. Weber within that three-year timeframe, there will be an automatic one-year suspension of his permit.

If Mr. Weber does not sign the proposed agreement within 30 days, the Board will go back to the original proposed agreement. Brock DesLauriers seconded the motion. Chairman Timian called for discussion. There was no further discussion. Chairman Timian called for the vote. Brock DesLauriers, Joe Sheehan, Matt Schlenvogt and Tim Timian voted yes. Corey Kost abstained from voting. Motion carried.

Chairman Timian called for a motion on Kelly Weber.

Matt Schlenvogt moved to offer Kelly Weber a settlement agreement with the following terms:

- 5) 60-day suspension.
- 6) \$7,500 fine.
- 7) One-year probation; the appraiser must submit a monthly log of appraisal reports and the Board has the discretion to make a selection from the log to review for compliance with USPAP.
- 8) There must be no valid complaints filed against Mr. Weber within three years of signing the agreement. If there is a valid complaint filed against Mr. Weber within that three-year timeframe, there will be an automatic one-year suspension of his permit.

If Mr. Weber does not sign the proposed agreement within 30 days, the Board will go back to the original proposed agreement. Brock DesLauriers seconded the motion. Chairman Timian called for discussion. There was no further discussion. Chairman Timian called for the vote. Brock DesLauriers, Matt Schlenvogt, Joe Sheehan, and Tim Timian all voted yes to the motion. Corey Kost abstained from voting. Motion carried.

Legal Counsel requested a motion on the joint stipulation that was written and signed by Mr. Nicolai. Matt Schlenvogt made a motion; the Board will not move forward with the joint stipulation as written, nor move forward with an administrative hearing. Joe Sheehan seconded the motion. Chairman Timian called for discussion. There was no further discussion. Chairman Timian called for the vote. Brock DesLauriers, Matt Schlenvogt, Joe Sheehan, and Tim Timian all voted yes to the motion. Corey Kost abstained from voting. Motion carried.

Joe Sheehan moved to un-recuse Corey Kost. Brock DesLauriers seconded the motion. Chairman Timian called for the vote. Brock DesLauriers, Joe Sheehan, Matt Schlenvogt and Tim Timian all voted yes to the motion. Corey Kost abstained from voting. Motion carried.

**Proposed Rules:** Corey Kost requested further discussion on the Proposed Rules. Under the licensed level, the Proposed Rules define transaction value for non-federally related transactions, but there is no definition of transaction value relative to a federally-related transaction. Discussion took place.

Corey Kost moved to amend his initial motion to accept the Rules as proposed, with one modification to 101-02-02-05.2b to specifically include "federally related transaction appraisals". Matt Schlenvogt seconded the motion. Chairman Timian called for the vote. Joe Sheehan, Brock DesLauriers, Corey Kost, Matt Shlenvogt and Tim Timian all voted yes to the motion. The vote was unanimous. Motion carried.

Chairman Timian signed off as Chairman. Board members and Staff thanked Tim for his years of service to the Board. Meeting adjourned at 9:55.

Respectfully submitted,

Jodie R. Campbell  
Executive Secretary