

STATE OF MINNESOTA
BOARD OF ASSESSORS

In the Matter of the Assessor License of
Dan Whitman,

**STIPULATION AGREEMENT
AND CONSENT ORDER**

License No. 2544

STIPULATION

This Stipulation Agreement ("Stipulation") is entered into by Dan Whitman ("Licensee") and the Complaint Committee of the Minnesota Board of Assessors. The parties stipulate to the following:

1. Licensee holds a Senior Accredited Minnesota Assessor license.
2. At all times relevant to this matter, Licensee was employed as the Assessor for Martin County, Minnesota.
3. Minnesota Statute § 273.11, Subd. 1, provides that "all property shall be valued at its market value." It further provides that, "[i]n estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation . . ."
4. Pursuant to Minnesota Statute § 270.41, Subd. 3, the Board of Assessors has the authority to suspend or revoke a Minnesota assessor license based on failure to faithfully and fully perform the assessor's duties through malfeasance, misfeasance or nonfeasance, or for any other cause or act that in the Board's opinion warrants the imposition of a sanction under subdivision 3. The Board of Assessors may also suspend or revoke an assessor's license pursuant to Minnesota Administrative Rule 1950.1090, subparts 3 and 4, for conduct specified therein.

5. In March of 2015, the Minnesota Department of Revenue received a complaint about Licensee's conduct of the January 2, 2015 assessments with respect to certain agricultural land in the City of Ceylon, Minnesota.

6. The complaint was referred for investigation by the Property Tax Division of the Department of Revenue. The investigation concluded that Licensee had departed from standard agricultural land valuation procedures with the goal of making the property taxes payable on agricultural land in the City of Ceylon similar to those payable on agricultural land in the adjoining Lake Belt Township.

7. The conclusions of the investigation were forwarded to the Complaint Committee of the Minnesota Board of Assessors for review. The Complaint Committee determined that Licensee's conduct as described in the investigatory report was not in conformity with the statutory directives of Minnesota Statute § 273.11. The Committee notified Licensee it would recommend to the Board of Assessors that discipline be imposed upon Licensee's Minnesota assessor license based on Licensee's alleged misconduct.

8. Licensee does not agree with the conclusions of the investigation and denies that his actions were improper or constituted misconduct. Minnesota Statute § 273.12 states "It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to lands which are comparable in character, quality, and location . . . and, for agricultural lands, to consider and give recognition to its earning potential as measured by its free market rental rate." While considering profitability (earning potential), an income approach to value is commonly used to develop an estimate of market value and the tax rate on property is a part of the overall capitalization rate applied in making such a calculation. Furthermore, in *McNeilus Truck & Mfg., Inc. v. County of Dodge*,

705 N.W.2d 410, 414 (Minn. 2005) the Court stated, "of course, as the tax court also recognized, adjustments to price may be necessary to account for differences in local tax rates and policies amongst comparable sales across state lines. But the same kinds of adjustments may need to be made with regard to comparable sales in different counties or different cities within Minnesota."

9. Licensee understands that the Complaint Committee of the Board of Assessors is prepared to initiate contested case proceedings before the Office of Administrative Hearings to determine whether sufficient grounds exist to support disciplining his license.

10. It is Licensee's desire to resolve the disciplinary proceedings without expending further time or incurring additional costs, and without the need for a contested case proceeding, and the Committee is in agreement that resolution without a contested case proceeding is appropriate.

11. Licensee understands that he has the right to a contested case proceeding regarding any proposed disciplinary action against his assessor license, and that, if he signs this Stipulation, and the Board of Assessors then adopts this Stipulation and proposed Consent Order, he is waiving that right as to this complaint only.

NOW, THEREFORE, in consideration of the foregoing, Licensee and the Complaint Committee of the Board of Assessors agree that, if the Board of Assessors adopts this Stipulation and issues a Consent Order, the following terms will become effective:

I. Effective as of the date the Board of Assessors adopts this Stipulation, Licensee's Senior Accredited Minnesota Assessor license is **SUSPENDED** for thirty (30) days. The suspension is **STAYED** so long as Licensee complies with the requirements set forth in paragraph II below.

II. During the next twelve (12) months, Licensee shall not engage in any conduct which would be grounds for suspension or revocation of his license pursuant to Minnesota Statutes § 270.41, Subd. 3 or Minnesota Administrative Rule 1950.1090, subpart 3 ("Prohibited Conduct").

III. If the Board or its Complaint Committee receives a new complaint during the next twelve (12) months and if the Board finds that Licensee has engaged in the Prohibited Conduct alleged in the new complaint, Licensee agrees the Board may lift the stay of suspension and agrees that his license will be suspended for thirty (30) days, without any further right to a hearing under Minnesota Statutes Chapter 14. Licensee further waives the right to any other judicial review of the thirty (30) day suspension by writ of certiorari, appeal, or other action.

IV. Licensee freely and voluntarily enters this Stipulation and agrees the Board may issue a Consent Order containing the terms in this Stipulation. Licensee agrees that he has made this decision without any coercion, duress, or representations outside those contained in this stipulation.


V. Licensee understands that, before the Board can take any action regarding a new complaint, he is entitled to a contested-case hearing on any new complaint before an administrative law judge from the Office of Administrative Hearings.

VI. The parties to this Stipulation affirm that they have read it and agree to the conditions and obligations it sets forth. The parties further agree that they have had adequate time to consider the terms of the Stipulation, that they are voluntarily entering into this Stipulation, and that they had an opportunity to review it with legal counsel before signing it.

VII. This Stipulation becomes binding upon the parties when their signatures are attached hereto.


The parties have executed this Stipulation on the dates written below.

Dated: 11/29/18



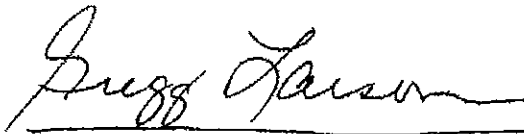
DAN WHITMAN

Dated: 12-6-2018



ANDREA FISH
Board of Assessors Complaint Committee

Dated: 12/6/18



GREGG LARSON
Chairperson, Board of Assessors

CONSENT ORDER

The Minnesota Board of Assessors has reviewed the Stipulation between Dan Whitman and the Complaint Committee of the Minnesota Board of Assessors. The Board of Assessors adopts and incorporates the Stipulation in full. Accordingly, as of the date of this Order, Licensee's Minnesota Senior Accredited Minnesota Assessor license is **SUSPENDED** for thirty (30) days. The suspension is **STAYED** provided Licensee does not engage in any Prohibited Conduct during the next twelve (12) months.

MINNESOTA BOARD OF ASSESSORS

Dated: _____, 2018

_____, Acting Chairperson¹

¹ The Acting Chairperson signed the order on behalf of the Board because the Board's Chairperson is a member of the Board's Complaint Committee and accordingly abstained from voting in this matter.