



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

June 13, 2011

Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met June 13, 2011 at 10:00 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairman, Thomas Carter, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

ABSENT

Herbert Phillips
Thomas R. Carter
James E. Wade, Jr.
Erik Sanford
Marc Headden

COMMISSION MEMBERS

William R. Flowers, Jr.
Dr. Edward A. Baryla
Nancy Point

STAFF MEMBERS PRESENT

Nikole Avers
Aminah Saunders
Eman Youssef

ADOPT AGENDA

Mr. Phillips made the motion to accept the agenda and it was seconded by Mr. Wade. The motion carried unopposed.

MINUTES

The April 11, 2011 and April 19, 2011 minutes were reviewed. Mr. Sanford made the motion to accept the minutes as written. It was seconded by Mr. Phillips. The motion carried unopposed.

Experience Interviews

Brian W. Webb made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Wade was the reviewer and recommended approval of his

experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Pat C. Stavely made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Phillips was the reviewer and recommended approval of his experience request. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Jamie M. Whitson made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Carter was the reviewer and recommended approval of his experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Brad Boyce made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Headden was the reviewer and recommended approval of his experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations to the Real Estate Appraiser Commission by e-mail to Ms. Avers, as seen below. Mr. Wade made a motion to accept Dr. Baryla’s recommendations. Mr. Phillips seconded the motion. The motion carried unopposed.

June 2011 Education Committee Report

Course provider	Course Number	Course name	Instructors	Hrs.	Type	Rec.
The Columbia Institute	1483	Report Writing- the UAD, No. 120	Bernerd Boarnet, Amelia Lovorn – Brown, George Harrison, Diana Jacob, Karen Martin, Martin Molloy, Bryan Reynolds	8	CE	for
McKissock, LP	1484	On-line Introduction to the Uniform Appraisal Dataset	Dan Bradley	2	CE	for
McKissock, LP	1485	On-line Appraising and Analyzing Industrial and Flex Buildings for Mortgage Underwriting	Bruce Coin	7	CE	for
The Spearman Center	1486	Appraisal Crimes & Foolishness	William Lewis Spearman	7	CE	for

The Spearman Center	1487	FHA 2011	William Lewis Spearman	7	CE	for
ASFMRA	1488	Highest & Best Use Seminar	Terry Kestner	8	CE	for
McKissock, LP	1489	Understanding the Uniform Appraisal Dataset	Daniel A. Bradley, Wallace Czekalski, Kenneth C. Guilfoyle, Charles W. Huntoon, K. Tracy Martin, Richard D. Mckissock, Larry Mcmillen, Steven W. Vehmeir, John De Forrest Willey, Susanne L. Barkalow, Paul Lorenzen	3	CE	for
ASFMRA	1490	Using Excel for Specific Appraisal Applications	Ann Roehm	8	CE	for
McKissock, LP	1491	Appraising in a Post-HVCC World	Daniel A. Bradley, Wallace Czekalski, Kenneth C. Guilfoyle, Charles W. Huntoon, K. Tracy Martin, Richard D. Mckissock, Larry Mcmillen, Steven W. Vehmeir, John De Forrest Willey, Susanne L. Barkalow, Paul Lorenzen	4	CE	for
Northern Michigan University	1492	On-line Inside Look: A Detailed Guide to the Uniform Appraisal Dataset	Dawn Molitor-Gennrich, Richard Heyn	3	CE	for
ASFMRA	1493	Cutting Edge Technologies & Resources	Gary Schnitkey, Leonard Meador, Terry A. Argotsinger, George E. Baird IV, Barbara Lechtenberg	8	CE	for
International Right of Way Association Volunteer Chapter 32	1494	Principles of Real Estate Appraisal C 400	Lawrence D. Dupree	15	CE	for

International Right of Way Association Volunteer Chapter 32	1495	Principles of Real Estate Engineering C 900	Lawrence D. Dupree	15	CE	for
ASFMRA	1498	Appraising Natural Resources	Justin Bierschwale	8	CE	for
Trees/Taps	1497	On-line Appraisal of 2-4 Family & Multi-Family Properties	Ron Oslin, Vicki Boyd, Carlos Carter	7	CE	for
Trees/Taps	1496	Appraisal of 2-4 Family & Multi-Family Properties (class)	Ron Oslin, Vicki Boyd, Carlos Carter	7	CE	for
Appraisal Institute	1499	Valuation in Challenging Markets	Stephen Roach, Paul Thomas	28+2	CE	for

Individual Course Approval

Stuart Blackstuck	2824	The State of TN Comptroller	TN Assessment Law + Legal Issues for Assessors	16+4	CE	Against insufficient information.
Stuart Blackstuck	2824	The State of TN Comptroller	DPA Basic Mapping Course	28+4	CE	Against insufficient information.
Craig Huber	1307	CCIM Institute	User Decision Analysis for Commercial Investment Real Estate	21	CE	For

Instructor Approval

McKissock LP	1207	National USPAP Update Equivalent (2010-2011)	Steve Vehmeier	7	CE	for
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Proposed Rule Change Language

This matter was deferred to the next meeting because Dr. Baryla, the education member, could not be present at this meeting.

Legal Report:

1. 201002118 Danny Wiley was the reviewer in this matter.

This complaint was filed by a lender and alleged that the Respondent over valued a residential property. The lender submitted a field review to support the allegation. The field reviewer alleged that the Respondent used comparables from a different county and utilized comparables of superior quality while making minimal negative adjustments while maximizing positive adjustments which led to the inflated value.

The Respondent states that the opinion of value is supported and indicates that a prior appraisal completed on the property had a similar value conclusion.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The workfile contains no data in support of the site value.
- The workfile contains no data in support of the site or location adjustments.
- In several instances significant features of the comparables were omitted from the adjustment grids.
- MLS photos were used despite an assignment condition mandating all original photos.
- Market conditions were not reported in accordance with Fannie Mae requirements.

Market Conditions: The data reported at the top of page two (2) of the URAR is not consistent with the information provided on the form 1004MC. For example, page two (2) states that there is only one (1) comparable property currently listed for sale in the subject's neighborhood. The form 1004MC states that there are 68 current listings of comparable homes in the subject's neighborhood. [SCOPE OF WORK RULE: Problem Identification section (failed to comply with applicable assignment condition)]

The reports contain conflicting data with regard to location adjustments. In Report 1 location adjustments were applied to all comparables. In Report 2 location adjustments were to most of the comparables. Yet, both reports state that no location adjustments are necessary. The reviewer found no data in the workfile supporting the location adjustments. [ETHICS RULE: Record Keeping section, COMPETENCY RULE, SR 1-1(a), SR 1-4(a), SR 2- 1(a)]

The subject's site value is reported to be \$125,000 (\$12,800 per acre). The workfile documents contain no support for that conclusion. The comparables are spread over a large geographic area (three different counties). Some are in subdivisions and some are not. The site adjustments were made based on a flat rate of \$4,000 per acre, regardless of the site size, topography, location, etc. The site adjustment should reflect the difference in total site value. No data was found in the workfile to support the rate that was applied. [COMPETENCY RULE, ETHICS RULE: Record Keeping section, SR 1-1(a), SR 1-1(b), SR 1-4(a)]

The actual age and effective age is reported for the subject and the comparables. Adjustments have been applied based on a rate of \$1,000 per year for the difference in effective age. However, the data in the cost approach indicates a higher rate should be applied. The subject has an effective age of two (2) years, and the depreciation is over \$11,000. [COMPETENCY RULE, SR 1-1(a), SR 1-4(a)]

The engagement requires certain assignment conditions for the appraisal. Specifically, the engagement letter states that MLS photos cannot be used for the comparables without attribution. It goes on to state that no MLS photos can be used for this client. The comparable photos all appear to have been taken from the MLS. [SCOPE OF WORK RULE: Problem Identification section (failed to comply with applicable assignment condition), SR 2-1(a)]

Comparable 1: The MLS listing states that there is a four (4) stall barn with wash room, tack room, office, electricity and water. The barn is also noted on the CRS data sheet. This is not reported, and no adjustment was applied. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Comparable 2: The listing notes that this home is in a golf course community. The home overlooks the course. This is noted in the MLS, but it is not addressed in the appraisal reports. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Comparable 3: Both the MLS and the CRS note that there is a large barn (20' x 40'). This is not addressed. The quality of the subject is reported as "average." The MLS listing states that this comparable was a contractor's personal home, and that it had many construction upgrades. This was not addressed in the appraisal reports. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Comparable 4: The quality of the subject is reported as "average." The MLS listing states that this comparable was of "outstanding quality," and several upgrades are reported in the listing. This was not addressed. The MLS listing indicates that there is a separate living quarters. There is nothing in the workfile documents to indicate that consideration was given to the separate living quarters. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Comparable 5: The quality of the subject is reported as "average." The MLS listing states that this is an "exquisite custom built home." Several upgrades are reported in the listing. This was not addressed. This home is located near a lake. The listing states that there is a walking trail from the home to the lake. The listing also states that there is a tennis court on the property. These items are not addressed. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Comparable 6 (Report 2 Only): The MLS listing state states that the property is fenced and there is a barn for horses. This is not addressed. The workfile data indicates that this home is superior in quality, but no adjustment was applied. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

The report states that the site value opinion was based on analysis of land sales, but no such sales were found in the workfile. [ETHICS RULE: Record Keeping section]

License History:	Registered Trainee	09/02/1998 – 09/20/2002
	Licensed Residential	09/20/2002 – 09/11/2008

Prior Complaint / Disciplinary History: 20070796 (Closed w/ Consent Order imposing \$2500.00 civil penalty and fifteen (15) hour USPAP course).

Reasoning and Recommendation: Given the Respondent's prior disciplinary history which involved appraising a property that exceeded the Respondent's license limit and the significant nature of the reviewer's findings Counsel recommends the imposition of a Consent Order imposing a civil penalty of one thousand dollars (\$1,000.00), a thirty (30) day suspension and completion of a thirty (30) hour Sales Comparison course and a fifteen (15) hour Site Valuation course. In addition, the Respondent would be placed on a one (1) year probation during which time the Respondent would not have trainees. Counsel believes that this disposition adequately communicates the gravity of the violations, protects the interest of the public and will ultimately serve to assist the Respondent in becoming a more thoughtful and effective appraiser.

Vote: Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

2. 2010027251 Commissioner Flowers was the reviewer in this matter.

This complaint was filed by an outside agency and alleged that the Respondent overvalued a residential property and appraised the subject property substantially higher than the listing price and failed to disclose structural damage.

The Respondent states that Respondent has been certified since 2000 and has never had disciplinary action taken against Respondent's certification. Respondent states that the allegation that the property was overvalued is unfounded and unsupported by the data available at the time. Regarding the failure to disclose structural damage the Respondent states that there was a routine interior inspection of the property made and that no structural damage was observed. The Respondent states that accuracy and personal integrity maintain appraisers in the business and that any errors were unintentional.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- In September of 2007, the subject property was listed for \$249,900, \$255,000 and \$349,900. On September 25, 2007 the Respondent appraised the property for \$355,000. The report did not include the summary of an analysis of the listing history. [SR 1-5 (a), SR 2-2 (b) (viii)]
- The subject property was built on a landfill and settlement in the house caused a 1/4" crack across the entire house. This settlement also caused windows and doors to not shut properly. The appraiser appraised the property "as is" and did not report deferred maintenance, structural issues, or use of any hypothetical condition. [SR 1-2 (e), SR 2-1 (a) & (c); 2-2 (b) (iii) (viii)]
- The sales comparison approach does not reconcile the structural damage of the subject with comparable sales in similar condition. [SR 1-4 (a)]

- The cost approach does not include adequate physical depreciation (crack) or any external depreciation (landfill) to reconcile the depreciation of the subject property. [SR 1-4 (b) (iii)]

License History: Certified Residential 05/16/1997 - Present

Prior Complaint / Disciplinary History: 200500449 Closed w/ LOC.

Reasoning and Recommendation: A conference was held on May 27, 2011 with Respondent, Respondent's counsel, Commissioner Flowers, Ms. Nikole Avers and board counsel to discuss the complaint matter and possible disposition. In the course of the informal conference, the Respondent accepted responsibility for many of the errors noted in the report and stated that the appraisal was "sloppy" and not indicative of the overall quality of Respondent's work over the course of Respondent's career. After discussing the report with the Respondent, Commissioner Flowers is of the opinion that the conduct alleged does not represent intentional misconduct and that the public can be adequately protected by the imposition of a consent order imposing a five hundred dollar (\$500.00) civil penalty and a fifteen (15) hour Residential Report writing course. Counsel notes that the Respondent has been appraising since 1997 with no prior disciplinary sanctions. The Respondent has no other pending complaint matters.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

3. 2011000241/2010029871 Michael Orman was the reviewer in this matter.

This complaint was filed by an outside agency and alleges that the Respondent communicated a misleading appraisal report by misreporting that the assignment purpose was for refinance, failed to report that the subject was in a declining market, misreported site information, failed to make appropriate adjustments for the comparable sales. In support of the complaint a field review appraisal report was submitted.

The Respondent states that the purpose of the appraisal is accurately reported in the appraisal. The Respondent disagrees with the reviewer's assertion that the subject was in a declining market, as to the choice of comparable properties, the Respondent states that the comparables were a combination of arms length transactions and foreclosure sales.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The report indicates that prices are stable, with supply and demand in balance and that the neighborhood has maintained a strong market appeal over the years. The report further states under Market Conditions that, "Supply and demand appear to be in balance with stable property values and normal marketing times due to subject convenient location". A review of the data indicates that at the time of the effective date of this report there were numerous trustee (foreclosure-take back), distress/bank sales in the area. The reviewer found no evidence in the report (or the supplied file) where this information was analyzed. The report notes that the neighborhood predominant price is \$68,000.00, There was no information found in the report (or the supplied file) indicating an analysis of area data supporting this conclusion.[SR1-1 (b); SR1-2 (e)(i); SR1-2 (f); SR2-1(b); SR2-2 (b)(iii)]

The report indicates that the subject site size is 6,423 square feet. According to the data and the 2005 County Assessor's information the subject site is .11 Acres or 4,791.6 Square feet. The zoning classification noted in the report was R-S0. The reviewer found that the zoning of subject property to be MDR-Moderate Density Residential, with single family residential permitted. [SR1-2(e)(i); SR2-2(b)(iii)]

Sale #1: was adjusted for site size. No reasoning or support was offered explaining the basis of this adjustment nor was there any supporting data/analysis as to land values located in the file. A positive age adjustment was made to this sale, without any explanation or analysis. This property sold, as is, on 9/22/2005 for \$4,500.00 then sold 11/29/2005 for \$53,000.00. It would appear that within this two month period some renovations or alterations were made that could have changed the way this sale compared to subject. No analysis and/or explanations were offered in the report of the historical price as compared to the current sales price and what was the basis of the age adjustment. MLS was listed as a verification source in the report and it should be noted that this property was not listed in MLS at the time of the 11/29/2005 sale.

Sale #2: shows to have an inferior site size, with a positive site adjustment. There was no analysis or explanation offered in the report nor was there any supporting data/analysis as to land values located in the file.

Sale #3: was reported to have sold with a 90% conventional loan. A verification source noted in the report indicates that the property sold and was financed with two loans. The first was a 90% conventional and a second conventional loan of 10% for 100% financing. The financing was not discussed or analyzed in the report regarding the possible effects or influences on sales price that this type of financing may have. This sale is also improved with an attached carport with no adjustment made or reasoning as to the lack of an adjustment.

Overall, the sales used in this report do not appear to have been properly verified, analyzed or reported. The quantity and quality of data used in the sales comparison approach has not been properly reconciled allowing the reader to arrive at the conclusions offered in this approach to value. An error was made that lead to adjustments being made in the sales comparison approach of the appraisal report that were unsupported. There is inadequate reasoning for the adjustments (or lack of adjustments, with no clear analysis or conclusions presented. [Competency Rule; Supplemental Standard Rule (appraiser certification #6 prior sales of comparables); SR1-1(a)(b)(c); SR1-4(a); SR2-1(a)(b); SR2-2(b)(ix)]

Cost data source is reported to be Marshall and Swift, dated 6/2005 (effective date of the appraisal 3/26/2006) with no quality rating provided. The following comments were found in the cost approach section; "*Cost estimates based on local contractor's information and appraiser's knowledge of the local market*". The reviewer found no supporting information or analysis in file. [SR1-1 (a)(b)(c); SR1-4 (b)(i)(ii)(iii); SR2-2 (b)(ix)]

The income approach to value section of the report was not completed and no explanation was provided. It should be noted that the property was listed as of the effective date of this report. The MLS listing stated that the property was currently rented section 8, earning \$625.00 a month. This information was not noted in the report.

[SR1-1(a)(b)(c); SR1-2(f) SR1-4 (c)(i)(ii)(iii)(iv); SR1-5(a)(listing) SR 2-2(b)(ix)(xi)]

The reconciliation in the report did not reconcile quality and quantity of data used in the approaches to value. Report states that the Cost and Sales comparison approaches were analyzed, with the sales comparison approach considered the most reliable. The income approach was not considered in the report even though the property was producing income. The cost approach does not produce credible results based on the inconsistencies found. Inconsistencies in the data used in the sales comparison approach reduce the credibility of this approach, therefore reducing the credibility of the final value opinion. [SR1-6 (a)(b); SR2-2 (b)(ix)]

2010029871 Michael Orman was the reviewer in this matter.

This complaint was filed by a lender and alleged that the Respondent communicated a misleading appraisal report by misreporting occupancy information, market conditions, comparable sales data, failing to properly develop the cost approach, omission of the income approach and overvaluing the subject property.

The Respondent defended the appraisal report and states that the residential property was not overvalued and the comparable selected are similar in age, quality, condition and design.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

A review was made of the MLS and no listing was found. The report indicates this and that the subject property “is available for sale by owner”. This offering of the subject property was not analyzed in the appraisal report. [SR 1-5 (a); 2-2 (b) (ix)]

Neighborhood: The report indicates that prices are stable, with supply and demand in balance and that the neighborhood has maintained a strong market appeal over the years. The report further states under Market Conditions that, “Supply and demand appear to be in balance with stable property values and normal marketing times due to subject convenient location”. A review of the data indicates that at the time of the effective date of this report there were numerous trustee (foreclosure-take back), distress/bank sales in the area. The reviewer found no evidence in the report (or the supplied file) where this information was analyzed. [SR1-1 (b); SR1-2 (e)(i); SR1-2 (f); SR2-1(b); SR2-2 (b) (iii)]

Sale #1: was listed \$74,900.00 and sold for \$79,900.00, with no analysis or explanation offered in the report. A site adjustment was made, however no analysis or explanation was offered nor was there any supporting data/analysis as to land values located in the file. A positive adjustment for the lack of a ½ bath was made to this sale. Based on the data sources referenced in the report this sale had one and one half baths therefore requiring no adjustment.

Sale #2 was listed in MLS for one day and reportedly sold for \$82,000.00 with \$4,700.00 in sales concessions. The report states that sales concessions are normal and customary. However without an analysis addressing if this sale was properly exposed to the market (listed 12/1/2005, pending 12/2/2005), the affect of the sales concession could not be analyzed. A site adjustment was made, however no analysis or explanation was offered nor was there any supporting data/analysis as to land values located in the file.

Sale #3 was listed for \$74,900.00 and sold for \$85,000.00, showing seller concessions of \$4,000.00 with no analysis or explanation offered in the report. The report states that sales concessions are normal and customary. However with the property selling for more than its asking price the report should offer some guidance as to the role and/or affect of these concessions as they relate to this sale. A site adjustment was made, however no analysis or explanation was offered nor was there any supporting data/analysis as to land values located in the file.

The comparables used do not appear to have been properly verified, analyzed and reported. Adjustments in the sales comparison approach of the appraisal report were unsupported and there is inadequate reasoning for the adjustments (or lack of adjustments), with no clear analysis or conclusions presented. [SR 1-4 (a); SR1-2(f); SR2-1 (a) (b) SR 2-2 (b) (ix)]

Cost Approach: Cost data is reported to be from Marshall and Swift, dated 6/2005 with no quality rating provided. The site value in the cost approach was not explained or supported. The respondent indicated in the response letter that the assessor office valued the land at \$10,800.00 and that their land value documented in the cost approach was calculated by adding \$1,200.00 for time period since the taxes were calculated. The square footage reported in the cost approach is not consistent with the reported square footage in the sales comparison, the improvement section of the report, or the attached sketch. The storage room on the sketch was not noted in the cost approach. The carport square footage noted on the sketch does not match the square footage number in the cost approach. Physical depreciation estimates (23.3%) are inconsistent with the effective age reported in the improvements section of the report and the noted remaining economic life. These figures indicate a physical depreciation of 33%. The report lacks the information and analysis necessary to understand the reasoning behind the formulation of the depreciation indication, as well as the final conclusion. [SR1-1 (a)(b)(c); SR1-4 (b) (i)(ii)(iii); SR2-2 (b)(ix)]

The income approach to value section of the report was not completed and no explanation was provided. [SR1-1 (a)(b)(c); SR1-2 (f) SR1-4 (c) (i)(ii)(iii)(iv); SR 2-2 (b) (ix)]

The reconciliation in the report did not reconcile quality and quantity of data used in the approaches to value. Report states that the Cost and Sales comparison approaches were considered, with the sales comparison approach considered the most reliable. The cost approach does not produce credible results based on the inconsistencies found. Inconsistencies in the data used in the sales comparison approach reduce the credibility of this approach, therefore reducing the credibility of the final value opinion. [SR1-6 (a)(b); SR2-2 (b) (ix)]

License History: Certified Residential 03/07/2001 - present

Prior Complaint / Disciplinary History: 200800016, 200800847, 200800963 Closed with a six (6) month suspension, one thousand dollar (\$1000.00) civil penalty, seventy five (75) hours of corrective education and a twelve (12) month probation & 200800963, 200801113 & 200801742 Closed with a sixty (60) day suspension concurrent with the above mentioned six (6) month suspension – involved an issue with controlling access to the digital signature.

Currently pending: 201100356 & 201100745.

Reasoning and Recommendation: Pursuant to a 2008 consent order which involved significant competency issues the Respondent was required to take seventy five (75) hours of corrective education. The reviewer's allegations as noted above appear to be similar to the findings in the 2008 consent order. The appraisals currently at issue involve 2005 and 2007 appraisals – predating the 2008 discipline. As such, Counsel recommends the approval of a consent order which would place the Respondent on one (1) year probation. The Respondent would submit the work log immediately upon execution of the order and one (1) appraisal will be selected for review, while on probation the Respondent would not be allowed to have trainees.

After discussions; the recommendation was amended to include a \$1000.00 civil penalty.

Vote: Mr. Phillips made the motion to accept the recommendation with the amendment, and Mr. Headden seconded the motion. The motion carried unopposed.

4. 2010036861 (201003392 & 201003498) Commissioner Phillips was the Reviewer.

This complaint (2010036861) was filed by TREAC after receiving a letter from an outside agency indicating that the Respondent received an education sanction for violations of FHA guidelines or USPAP in an appraisal assignment.

The Respondents states that there was limited sales data available for comparison in the subject neighborhood which reflected a wide range of selling prices. The Respondent states that he is hoping the Commission will consider his six (6) month removal from the FHA roster and his thirty five (35) year appraisal career.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The market value of the subject appears to be inaccurate due to the selection of the sales. The sales selected were the highest in the neighborhood and one was located 1.9 miles from the subject. A reviewer found other more recent sales in proximity to the subject. [SR 1-4(a)]

The complainant reviewer alleged that the condition of the subject was not reported and indicated that it appeared that the subject had some renovations 10-20 years ago, but the overall appearance was somewhat dated and neglected giving the property an average condition rating and not “good” as reported by the appraiser. Further, he indicated that the property revealed that the shingles on the roof were puckering and curling and the roof had less than three (3) years of serviceable life. In addition, there were other items of deferred maintenance that were not reported. [SR 1-2(e) & SR 2-1(a)]

The sales history of Sale No. 3 was not analyzed. Sale No. 3 sold for \$208,000 on December 17, 2008. Prior to that transfer it sold six (6) months prior for a consideration of \$173,000. There is no explanation to the large increase within six months. [SR 1-4(a)]

Reasoning and Recommendation: An informal conference was held with the Respondent, Commissioner Phillips, Ms. Nikole Avers and board counsel on May 23, 2011. Due to the sanctions instituted by HUD which included removal of the appraiser from their Appraiser Roster for (6) six months completion of a seven (7) hour continuing education course Commissioner Phillips recommends the imposition of a consent order imposing a five hundred dollar (\$500) civil penalty. In the appraisal, the Respondent failed to adequately research the market area for the most

appropriate sales. It is the intent of the civil penalty is to encourage the Respondent to give better attention to the sales research. The course hopefully will assist the respondent in appropriately providing appraisal services in the future. Commissioner Phillips further recommends this complaint be combined with Complaint 201003392 and 201003498 for a total civil penalty of five hundred dollars (\$500.00).

Complaints 201003392 and 201003498 were presented at the April TREAC meeting and involve the same appraisal. In that review Commissioner Phillips found the following:

- *Sales contract was not completely analyzed.*
- *Improved Sales were not completely analyzed.*
- *There is no explanation for the exclusion of the cost or income approach.*
- *There is no support for the lot value of twenty thousand dollars (\$20,000).*
- *The appraiser did not provide an adequate description of the present condition and needed repairs for the subject.*

After discussions; the recommendation was amendment to no credit for continuing education.

Vote: Mr. Wade made the motion to accept the recommendation with the amendment and Mr. Headden seconded the motion. The motion carried unopposed.

5. 2010036462/2010036461 Mr. William Wilson was the reviewer.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property and communicated an appraisal that was misleading and contained numerous errors. The complainant states that the appraisal was completed by a trainee.

The Respondent supervisor states that the trainee assisted in the assignment but the majority of the assignment was completed by supervisor. The Respondent supervisor states that he is responsible for the content of the appraisal report. The Respondent states that an error regarding the year built was corrected in a subsequent report and that the microwave was not marked in the report.

The report states market is "average" but almost half of the sales were foreclosure sales. Present Land Use section has Multi-Family percentage as zero while the subject property adjoins a large apartment complex. [SR 1-2(e) (i), SR 2-2(b)(iii)]

Data Sources; reference was made to MAAR DATA and MLS data but there were no copies of this data in the submitted Workfile. [ETHICS RULE: Record Keeping section]

Summary of Sales Comparison Approach section said "see attached addendum", This addendum discussed the market area and that two of the sales were foreclosure sales but did not discuss any reconciliation that derived the indicated Sales Comparison Approach. Just a statement that "all sales were considered", yet the indicated value is close to the two foreclosure sales with no explanation. [SR2-2(b)(viii)]

The appraisal reports indicate a site value of \$21,500 and the report states "the site value was derived from lot sales in the area" The workfile documents submitted by the respondents did not include any support for the reported site value or reference to any site value file. If other data was used but not retained, then the record keeping requirement have not been met Cost source data is listed as "Marshall Swift-Local contractors" but no cost sheets were included in the submitted workfile. [ETHICS RULE: Record Keeping section]

If no land sale were analyzed, the report could be inaccurate and misleading. [SR2-1(a)]

Income Approach: In the Reconciliation section the statement was made "the income approach is not applicable for owner-occupied homes in this area". In light of the complainants statement that it would not be "owner-occupied" and per the respondents letter on Gross Rent Multipliers (GRM), a more detail explanation in the second report could have explained these conflicting statements. It is feasible that the income approach could be applicable and that investors could be buying foreclosures as rental investment properties, with a GRM under 100. The appraiser is the party which must make the decision as to what approaches to use or not use, not the client. [SR1-4(c)]

The Respondent submitted a second response to the complaint matter and indicated that the market is considered average and that ten (10) to twenty (20) foreclosure sale is average for the area. The Respondent states that he was unaware of the requirement to submit all supporting data and provided the listing data relied on and lot sales. The Respondent states that the trainee did not sign the appraisal report and as such Respondent takes full responsibility for its contents.

License History: (Supervisor)	Certified Residential	12/12/1991- present
	Trainee	09/17/2009 - present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Given the Respondent's prompt and thorough response regarding the complaint matter and lack of disciplinary history in twenty (20) years Counsel recommends a Letter of Instruction regarding reporting income properties and foreclosure activity as well as summarizing reconciliation of the value indications in the appraisal report. Counsel recommends the DISMISSAL of the complaint matter against the trainee.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

6. 2011000531 Mr. Sam Pipkin was the reviewer.

This complaint was filed by an outside agency and alleged that the appraisal at issue was not completed by the Respondent but that a trainee completed the appraisal. The complainant further alleges that the residential property was over valued and that there were errors in the sales history information.

The Respondent states that the value conclusion is supported and concedes that he signed the appraisal report on the left side indicating that he made an exterior and interior inspection when in fact he made an exterior only inspection. The Respondent states that at the time of the appraisal he

was dealing with a medical issue and because his trainee had the requisite number of hours to inspect alone, he thought he was complying with the Rules. The Respondent states that he intended to sign the report as the supervisor, accepting responsibility for the appraisal after reviewing it but mistakenly signed on the left. The Respondent states it is not his usual practice to allow trainee to inspect alone and assures the Commission it will not happen again in the future.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The signing of the appraisal by Respondent as the appraiser without disclosing that a significant amount of the report was performed by a trainee is a violation of the certificate signed by the appraiser. [SR 2-1, SR 1-5]

License History: (Supervisor) Certified Residential 10/01/2001 - present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Counsel notes the Respondent's ten (10) years of licensure with no prior discipline and that the Respondent states that medical issues were involved therefore Counsel recommends the imposition of a consent order imposing a seven (7) hour course on supervising trainees.

After discussions; the recommendation was amendment to be **dismissed**.

Vote: Mr. Wade made the motion to accept the amendment and Mr. Sanford seconded the motion. The motion carried unopposed.

7. 2010036851/ 2010036852 Mr. Sam Pipkin was the reviewer in this matter.

This complaint was filed by a lender and alleged that he Respondent communicated an appraisal report that which omitted one (1) of two (2) sales that occurred within three (3) years of the effective date and did not provide adequate narrative regarding the subject's functional utility which in the appraisal report was described as average.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The appraiser failed to report the sale of the lot on March 8, 2007 for \$110,000. At the date of the sale the property was a vacant lot and the sale was not indicative of the value at the date of the appraisal. However, the appraiser did fail to report or analyze the sale of the property that occurred within three years as required. [SR 1-5 (b)]

In response to the above allegation the Respondent concedes that the lot sale was not included in the original report but that the records being relied upon at the time of the appraisal assignment did not reflect the sale as of the effective date of the report. The Respondent states that courthouse data indicates that the subject was part of a multi vacant lot sale on May 19, 2006 and a sale price of sixty thousand dollars was assigned to the subject. The Respondents states that the sale represents a transfer of a lot only and would not constitute a transfer of real estate – site and improvements. The Respondent further state that he believes that data relied on in the report is compatible with the practice of Respondent's peers and that the original report was not misleading as a result of the omission. In addition, Respondent provided a letter from complainant stating that the Respondent's eligibility was reinstated.

License History: (*Supervisor*) Certified Residential 06/26/2001 - present
Trainee 10/13/2005 – 04/22/2008
Certified Residential 04/23/2008 - Present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Given the Respondent’s lack of disciplinary history, the technical nature of the single violation noted and the Respondent’s prompt and thorough response to the allegation Counsel recommends the DISMISSAL of the complaint matter against Respondent and trainee.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

8. 2011000551 Mr. Michael Orman was the reviewer in this matter.

This complaint was filed by a consumer and alleges that the Respondent under valued a residential property by providing a value conclusion that was twelve (12) percent less than an appraisal performed the previous year.

The Respondent states that he is familiar with the market area which has limited development, any growth is primarily agricultural in nature and that there are limited sales in the area. The Respondent states that his opinion of value is supported by the data available at the time.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- In the sales comparison approach there was no discussion about the possibility that any of the sales had been remodeled and/or updated which could have an effect on that sales effective age [SR 2-2(b)(viii)]

License History: Certified Residential 06/02/2000 - present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Given the Respondent’s lack of disciplinary history counsel recommends a Letter of Instruction regarding the violation noted above.

Vote: Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

9. 2011000661 Mr. Sam Pipkin was the reviewer in this matter.

This complaint was filed by a consumer and alleges that the Respondent under valued a residential property by communicating an appraisal that was twenty (20) percent less than the appraisal completed three years prior.

The Respondent states that the value conclusion is well supported.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- No violations of USPAP noted in the appraisal report.

License History: Certified Residential 12/31/1991 - present

Prior Complaint / Disciplinary History: 199901753 (Closed w/ civil penalty and corrective education), 2000002669 (Closed w/ civil penalty and corrective education)

Reasoning and Recommendation: Counsel recommends the DISMISSAL of the complaint matter as no violations were noted.

Note: Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

10. 2010037161 Danny Wiley was the reviewer in this matter.

This complaint was filed by a consumer and alleges that the Respondent undervalued a residential property.

The Respondent states that the value conclusion is well supported.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The Market Conditions Addendum (Form 1004MC) was not completed in accordance with Fannie Mae requirements. The form 1004MC reports only 3 comparable sales in the subject's neighborhood within the past year. This is not enough data for trend analysis. If the data in the grid on the form 1004MC is insufficient for analysis of market trends, then the appraiser is required to supplement the grid with additional data supporting the market trends indicated on Page 1 of the URAR. This is particularly relevant in this case because Page 1 of the URAR indicates an over supply of housing and marketing times over 6 months. [SCOPE OF WORK RULE, Problem Identification section]

The report indicates that the subject property generally conforms to the neighborhood with regard to functional utility, style, condition, use, construction, etc. The subject property is a log cabin with less than 900 square feet. The floor plan includes only one (1) bedroom. It appears that the subject property does not generally conform to the neighborhood. This is demonstrated by the sales data included in the report. The sales used are all at least 50% larger than the subject, and all of the comparables have at least 3 bedrooms. [SR 2-1(a), SR 2-2(b)(iii)]

Sale 2: The report states that there was a prior sale of comparable 2 in November 2009. The sale price and date are reported, but there is no analysis of the prior sale. [SCOPE OF WORK RULE, Problem Identification section]

No income approach was included in the report, and there is no explanation of why the income approach was not included. The home was rented, and comparable rents were provided. Despite that fact, it appears that the income approach would not be necessary for credible results in the

assignment. However, USPAP mandates an explanation for the omission of the income approach. [SR 2-2(b)(viii)]

The documentation provided for review indicates that multiple reports were transmitted to the client. The report copy provided by the Respondent does not appear to be a complete and true copy of the report sent to the client. The report copy provided by the Respondent does not contain the Fannie Mae form 1004MC. The report copy submitted with the complaint does include the Fannie Mae form 1004MC. The report copy provided by the Respondent has a signature date of 08/04/2010. The report copy provided by the Complainant has a signature date of 08/12/2010. Only one complete report was submitted by the Respondent. There are copies of amended pages from an apparently subsequent report. It appears that the Respondent did not comply with the directive to provide all appraisal reports prepared for the subject property. [Record Keeping section, ETHICS RULE]

License History: Certified Residential 11/15/1991 - present

Prior Complaint / Disciplinary History: 200708680(Dismissed), 200900598 (Dismissed)

Reasoning and Recommendation: Given the Respondent's lack of disciplinary history and the reviewer's findings regarding the overall credibility of the report Counsel recommends a Letter of Instruction pertaining to the violations noted above.

Vote: Mr. Phillips made the motion to accept the recommendation and Mr. Sanford seconded the motion. The motion carried unopposed.

11. 2011004341 Sam Pipkin was the reviewer in this matter.

This complaint was filed by a lender and alleged that the Respondent misrepresented the residential property as a non working farm when according to the assessor the property is classified as a greenbelt/working farm.

The Respondent states that the property owner advised that the property was a non working farm and used only for recreational purposes.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- No violations of USPAP noted in the appraisal report.

License History: Licensed Real Estate Appraiser **12/19/2002 - present**

Prior Complaint / Disciplinary History: 201000967 (closed w/ consent order imposing thirty (30) day suspension)

Reasoning and Recommendation: Counsel recommends the DISMISSAL of the complaint matter as the reviewer found no violations of USPAP.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

12. 201100242

Danny Wiley was the reviewer in this matter.

This complaint was filed by a lender and alleges that the Respondent communicated a misleading appraisal report by misreporting the comparable sales data and that a reasonable value determination could not be made given the extremely wide value range indicated. The complainant states that the appraisal was rejected.

The Respondent state that at the time of the appraisal Respondent was recovering from surgery and was under a great deal of stress. The Respondent states that the mistakes alleged could have easily occurred and hopes the Commission will show Respondent understanding and kindness.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Both reports state that supply and demand are in balance, but available data indicates an over supply.
- The site description does not address relevant characteristics (lake view, lot bisected by road).
- There are numerous errors in the comparison approach.
- There are no reconciliation comments addressing how the value was derived from the wide range of indicated value.

Page 1 of both reports indicates that supply and demand are in balance. However, page 2 indicates that the number of comparable listings exceeds the number of sales in the past year. Both reports state that the neighborhood includes the entire county. The MLS reports that in the year prior to the effective date of Report 1 there were 120 residential sales. As of 1/20/2011, there were 162 listings in County. Hence, the data in the appraisal report and available MLS data both indicate an over supply of housing. [SR 1-2(e)(i), SR 2-1(a), SR 2-2(b)(iii)]

Report 1 states that the view is “Typical.” Report 2 states that there is a “Lake” view. The CRS maps indicate that the subject site is near a lake, and that it likely has a lake view. CRS data also indicates that the site is bisected into two unequal parts by the road. Hence, the view is not accurately reported in Report 1. Neither report addresses the fact that the site is bisected by the road. [SR 1-2(e)(i), SR 2-1(a), SR 2-2(b)(iii)]

Both reports state that MLS was used as a data source for the property characteristics. The reviewer found no MLS records for the subject property. The workfile documents include no MLS listings for the subject. [SR 2-1(a)]

Sale 1: The reports indicate that courthouse records were used as a data source. The only data record in the workfile is the MLS listing. [Record Keeping section of the ETHICS RULE, SR 2-1(a)]

The subject is five (5) years old. The effective age of the subject is reported as 5 years, and in the cost approach there is physical depreciation of \$12,671. Sale 1 is a new home with an effective age of 0. Hence, an age/condition adjustment consistent with the depreciation in the cost approach should have been applied. [SR 1-1(b)]

Sale 2: The reports indicate that courthouse records were used as a data source. The only data record in the workfile is the MLS listing. [Record Keeping section of the ETHICS RULE, SR 2-1(a)]

The home has 2.5 baths. In Report 1 no bath adjustment was applied. A negative adjustment of \$950 was applied in Report 2. The minor error in Report 1 would have minimal effect on the assignment results. The subject is 5 years old. The effective age of the subject is reported as 5 years, and in the cost approach there is physical depreciation of \$12,671. Sale 2 is reported to have an effective age of 1 year. Hence, an age/condition adjustment consistent with the depreciation in the cost approach should have been applied. [SR 1-1(b)]

Sale 3: This home is reported to have sold for \$196,209. However, this was not a sale. As shown by the CRS printout in the workfile documents, this was a transfer by substitute trustee's deed to Mortgage Services, Inc. This was a foreclosure action, and the amount shown on the deed is a loan balance, not a sale price. Use of this as a comparable is not appropriate because it is not a market based sale. Furthermore, as noted on the MLS listing in the Respondent's workfile documents, this home fronts on the Lake. This was not disclosed in Report 1, and no adjustment was made in either report. The MLS listing also shows that at the time of the appraisal this home was listed for sale with an asking price of \$149,900. This was not reported. The MLS listing and the CRS data in the workfile both show that the home has finished basement area. This is not reported in either appraisal report. [SR 1-1(a), SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Sale 4: The site size is reported to be 0.17 acres. CRS data shows that the site size is much larger. Also, as noted in the MLS listing in the workfile documents, this site is on the main channel of Lake. No adjustment was made for the lakefront location. The MLS listing also states that there is 528 square feet of finished basement. This is not reported, and no adjustment was applied. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Sale 5: (Report 2 only) This is also a lakefront home. This is noted in the MLS listing. The MLS photos, which are included in the workfile documents, show the lake view, lake access and a boat dock. The listing also notes that there is a shop building with 2,500 square feet. There is a photo of this building in the listing. There are no adjustments for the lakefront site or the shop. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Sale 6: (Report 2 only): This home is also on the lake. The CRS data sheet included in the workfile documents notes that there is a boat slip. There is no adjustment for the lakefront location. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

There are significant errors in the analysis of all the comparables. There are so many errors that the appraisal is not credible. [STANDARD 1]

Neither report contains any reconciliation comments to explain how the value opinion was derived from such a large range. Report 1 simply states that the value range from the comps is \$123,304 to \$188,349, and the value is within that range. Report 2 incorrectly states that the value range from the comparables is \$123,304 to \$188,340. The correct range is \$125,154 to \$272,395. Hence, the value range is larger than the final value opinion itself. [SR 1-6, SR 2-2(b)(viii)]

License History: Registered Trainee 05/08/2000 – 05/23/2004
Certified Residential 05/24/2004 – Present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Given the Respondent’s lack of prior disciplinary history, health issues and the complainant’s statement that the appraisal at issue was rejected thereby mitigating the risk of harm to the public Counsel recommends the imposition of a consent order requiring a civil penalty in the amount of five hundred dollars (\$500.00), a thirty (30) hour Sales Comparison Approach course and fifteen (15) hour Site Valuation and Cost Approach. The education and civil penalty should act to assist the Respondent in becoming a more competent and effective appraiser thereby protecting the interest of the public.

After discussions; the recommendation was amendment to no credit for CE.

Vote: Mr. Phillips made the motion to accept the recommendation with the amendment and Mr. Headden seconded the motion. The motion carried unopposed.

13. 2011002891 Michael Orman was the reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property, misreported the square footage, number of rooms and indicated that the subject has a basement when it does not.

The Respondent states that any part of the subject that is below grade is considered a basement and that some areas of an appraisal are within the discretion of the appraiser.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- There was a lack of commentary or description of the physical characteristics of the basement. While this information is necessary to provide a clear understanding of the properties characteristics, the lack of this information does not appear to adversely affect the conclusions noted in the report.

License History: Registered Trainee 03/21/2007 – 07/26/2010
Certified Residential 07/27/2010 - present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: At the time of the appraisal the Respondent had been Certified Residential for about seven (7) months. Counsel recommends a Letter of Instruction regarding the single issue noted by the reviewer.

Vote: Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

14. 2010036961**Danny Wiley was the reviewer in this matter.**

This complaint was filed by a consumer and alleged that the Respondent communicated a misleading report and failed to state that the subject property was located near a landfill.

The Respondent states that Respondent had no knowledge of the proposed expansion of the landfill at the time of the appraisal.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The complaint alleges that the Respondent acted unethically by not disclosing a pending sale of an adjoining property and by not adjusting for the adverse effect that pending sale had on the subject property. The reviewer found no evidence to support the claim that the Respondent acted unethically with regard to that issue.
- The report does not contain an analysis of the current listing of the subject property.
- There are apparent errors in the reporting of the size for sale two (2).
- The report contains no reconciliation section addressing the wide range of value indications provided in the comparison approach.

The report correctly notes that the subject property was listed at the time of the appraisal, but there is no analysis of the listing. In the space allotted for analysis of the listing the report states, "Subject currently under contract for a sales price of \$265,000." The information provided relates to the contract, not the listing. MLS data (MTRMLS # 784639) indicates that the home was listed in the MLS with an asking price of \$280,000. The listing indicates a marketing time of 127 days. A copy of the listing is included in the workfile documents submitted by the Respondent. It appears that the listing was analyzed, but was not addressed properly in the report. [SR 2-2(b) (viii)]

Sale 2: The property used as comparable two (2) is reported to have 3,770 square feet of above grade living area. The workfile documents submitted by the Respondent contain an MLS listing that states that the home has 4,375 square feet. The appraisal report also lists ROMCT as a data source. No tax data was for this property was included in the workfile documents submitted. The reviewer found no data source that indicated that the home has 3,770 square feet as was reported. [SR 1-1(b), SR 2-1(a)]

The report contains a reconciliation section that addresses the approaches used. However, the report contains no reconciliation for the comparison approach itself. Sale one (1) provides a value indication of \$252,115. Sale two (2) provides a value indication of \$208,115. Sale three (3) provides a value indication of \$266,795. The range of indicated value via the comparison approach is over \$50,000. The report does not explain why the value opinion from the comparison approach is in the extreme upper end of the indicated range. [SR 2-2(b)(viii)]

The complaint alleges that the Respondent acted unethically because a pending sale of an adjoining tract was not reported. The adjacent property was purchased by a landfill. The appraisal report notes that the subject property is located near a landfill. The sale of the adjoining property had not closed at the time of the appraisal. The reviewer found no evidence indicating that the Respondent should have been aware of the pending sales. Furthermore, the reviewer found no evidence that the pending sale would have adversely affected the subject property, even if it had been known.

License History: Certified General 12/02/1993 – present

Prior Complaint / Disciplinary History: 941816 (Closed), 942667 (Closed), 199900604 (Closed w/ a Consent Order), 1999021522 (Closed w/ Consent Order)

Reasoning and Recommendation: Given the Respondent's lack of *recent* disciplinary history, the length of time since the appraisal (2006), the Respondent's thorough response to the allegation and the technical nature of the violations noted above, Counsel recommends a Letter of Warning regarding the violations noted by the reviewer. Counsel believes that a Letter of Warning could adequately advise the Respondent while protecting the interests of the public.

Vote: Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

15. 201100501 Sam Pipkin was the reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent unethical practice prevented the complainant from securing a refinance. Specifically, complainant states that Respondent under valued two residential properties. In property one (1) the complainant alleges that the Respondent misreported the square footage and failed to use photos that reflect the actual condition of the property and upgraded flooring. Further the complainant states that the appraiser was not creative and failed to go more than two miles to find comps. In the second appraisal the complainant states that the Respondent went eight (8) miles to find comparables and the property selected lacked the amenities that the subject property has.

The Respondent states that being creative is likely the antithesis of objective assessment based on current market conditions and he has never heard of a lender asking an appraiser to be creative. As to the GLA the Respondent states that the difference in square footage was related to the finishing.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

The reviewer indicates that the Respondent's choice of three (3) comparable sales without basements and the adjustment of \$7,500 for a 1,600 square foot basement is questionable however the reviewer cannot conclusively state that USPAP has been violated.

License History: Certified Residential 11/09/1994 – present

Prior Complaint / Disciplinary History: 946785 Dismissed.

Reasoning and Recommendation: Counsel recommends a Letter of Instruction pertaining to the analysis of adjustments applied in the sales and summary support within the appraisal and summarizing in the sale comparison approach reasoning for using comparable sales at a distance that exceeds recommended guidelines when it is necessary to do so.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

16. 2011008601 There was no the reviewer in this matter.

This complaint was filed by a lender and alleged that the Respondent over valued a residential property in a 2006 appraisal report.

License History: Certified Residential 09/16/2004 – 06/20/2010

Prior Complaint / Disciplinary History: 200801991, 200802203, 200802208, 200802209, 200802236, 200802237, 200802363, 200802695, 200802696 and 2010002661 (all closed by consent order imposing a \$5000.00 civil penalty and suspension).

Reasoning and Recommendation: Counsel Recommends CLOSE and FLAG the Respondent is currently not licensed.

Vote: Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

17. 2011009431 There was no the reviewer in this matter.

This complaint was filed by a fellow practitioner and alleged that the Respondent failed to pay a subcontractor for appraisal services and failed to provide copies of appraisal reports and retained complainant's signature.

The Respondent states that the working relationship has been tumultuous and that the parties have a dispute regarding the amount actually owed but that payment has been made to the complainant. The Respondent states that the allegation that complainant was not allowed access to the files is false and that complainant made copies of the files upon departure. Respondent states that an argument ensued when the complainant was not allowed to keep keys and eventually complainant was asked to leave the premises.

License History: Certified Residential 03/13/2007 - present

Prior Complaint / Disciplinary History: None

Reasoning and Recommendation: The dispute regarding funds appears to be outside the purview of the Real Estate Appraiser Commission. As to the access/ work file retention issue the evidence is insufficient to indicate whether a violation of USPAP has occurred. As such counsel recommends the CLOSURE of the complaint matter.

Vote: Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

18. 2011008851 There was no the reviewer in this matter.

This complaint was file anonymously and alleged that the Respondent is advertising as an appraiser without a license. In support of the allegation, the complainant submitted an advertisement from a publication that state Respondent – 'TN license Real Estate Appraiser and Broker'. The advertisement is apparently related to tax appeals.

The Respondent states that Respondent never intended to state that Respondent holds any credential other than an inactive license or that Respondent is performing appraisals. The Respondent states that she failed to proofread the advertisement.

License History: Inactive 03/22/1996 – present

Prior Complaint / Disciplinary History: 941764 closed

Reasoning and Recommendation: Counsel recommends a Letter of Instruction regarding properly identifying the license status in all advertisements.

Vote: Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Non-residential expert witness qualifications

Ms. Saunders recommended to be deferred to the next meeting; board members accepted the recommendation.

Reciprocal License Agreements with other states – Mr. Headden

Mr. Headden felt the applicants who obtain reciprocal credentials should have Tennessee approved education. Ms. Avers referred the board members to policy # 8 of TREAC; which states: Applicants, which are current credential holders in good standing within another jurisdiction, may obtain reciprocal credentials, temporary practice permits, renewals of existing credentials, and an equivalent credential in Tennessee on or after January 1, 2008 without having to meet the 2008 AQB criteria. If an appraiser holds a valid appraiser credential supported by an AQB approved examination, the appraiser will be deemed to be in full compliance with the 2008 criteria. Evidence of AQB compliance must be verified either through the National Registry, maintained by the Appraisal Subcommittee of Congress, or by a “Letter of Good Standing” from the credentialing jurisdiction.

Appraisal Management Company (AMC) complaint process – Mr. Carter

Mr. Carter expressed a desire to set up a complaint process for handling AMC complaints. Ms. Avers stated that the complaint processing has standard operating procedure for all Regulatory Boards, and the AMC complaint form was created by staff to be very similar to other board’s complaint forms and includes specific items identified by statutory authority for which the Commission has the ability to discipline an AMC. The AMC complaint form will be available on the Real Estate Appraiser Commission website on July1, 2011.

Appraisal Management Company (AMC) Application reviews – character questions

OrderPro USA submitted an application to become a registered appraisal management company on May 9, 2011. **Michael G. Feuerborn** was identified as the controlling person for this company and checked “Yes” to Character Information question 3 which reads, “Have you ever been convicted of, pled guilty, or pled no contest to any criminal offence, or is there any criminal (felony or misdemeanor) charge now pending against you?” His supplemental letter indicated he got into an altercation where he “grabbed and pushed him”. His municipal court documents indicated “Battery – Intentionally or recklessly causing bodily harm to another person.” The date of the occurrence

was listed as on or about September 30, 2008. The Order of close out on this matter was August 2, 2010. After discussion: Mr. Sanford made the motion to approve the application and Mr. Wade seconded the motion. The motion carried unopposed.

Appraisal Management Services LLC submitted an application to become a registered appraisal management company on May 16, 2011. **Steven Houston** was identified as owning ten percent (10%) or more of this company and checked “Yes” to Character Information question 3 which reads, “Have you ever been convicted of, pled guilty, or pled no contest to any criminal offence, or is there any criminal (felony or misdemeanor) charge now pending against you?” His supplemental information indicated he plead Nolo Contendere to “driving under the influence” on October 14, 1978. In a second document records indicated “40-6-391 (a) (1) Driving Under the Influence of Alcohol; 40-6-48 Failure to Maintain Lane; 40-6-180 Too Fast for Conditions” and where there was a guilty plea on February 7, 2003, pertaining to an occurrence July 11, 2002. Mr. Wade made the motion to approve the application and Mr. Phillips seconded the motion. The motion carried unopposed.

Lincoln Appraisal & Settlement Services, LLC submitted an application to become a registered appraisal management company on May 18, 2011. **George K. Demopoulos** was identified as the controlling person for this company and checked “Yes” to Character Information question 1 which reads, “Have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere? This would include a consent order, agreed order, final order, suspension, revocation, or voluntary surrender of a license or certificate pursuant to a disciplinary proceeding.” His supplemental information indicated he signed a consent order agreement in Rhode Island and paid a civil penalty in the amount of \$1,000 and completed a USPAP course. An affidavit from Rhode Island indicated the terms of this order had been met. Mr. Headden made the motion to approve the application and Mr. Wade seconded the motion. The motion carried unopposed.

Urban Lending Solutions Appraisals, LLC submitted an application to become a registered appraisal management company on May 25, 2011. **Charles Saunders** was identified as the controlling person for this company and checked “Yes” to Character Information question 3 which reads, “Have you ever been convicted of, pled guilty, or pled no contest to any criminal offence, or is there any criminal (felony or misdemeanor) charge now pending against you?” His supplemental information he paid a \$300 fine plus court costs for a criminal offense in 2007 which he was found guilty of a “Summary Offense, Harassment” that was a result of an altercation at a sandwich shop in November of 2006. Mr. Wade made the motion to approve the application and Mr. Headden seconded the motion. The motion carried unopposed.

The Property Sciences Group, Inc. submitted an application to become a registered appraisal management company on May 18, 2011. **Paul Chandler** was identified as the controlling person for this company and checked “Yes” to Character Information question 1 which reads, “Have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere? This would include a consent order, agreed order, final order, suspension, revocation, or voluntary surrender of a license or certificate pursuant to a disciplinary proceeding.” His supplemental letter indicated that he is noted as having an infraction in the State of California on the ASC website. He said he no longer

has records of the action because it was from April 15, 1999 and he said California no longer has record of the infraction as it is older than ten years and the file has been purged from their system. He did not summarize what this incident may have involved or the type of disciplinary action that this “infraction” resulted in. Headden made the motion to approve the application and Sanford seconded the motion. The motion carried unopposed.

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Being no further business, the meeting was adjourned at 11:45 a.m.

Chairman, Thomas Carter

Nikole Avers, Executive Director