



TENNESSEE BOARD OF REAL ESTATE APPRAISERS
DAVY CROCKETT TOWER
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243

<https://www.tn.gov/commerce/regboards/treac.html>

MINUTES
April 5, 2022

The Tennessee Board of Real Estate Appraisers met April 5, 2022, and the following business transacted:

CALL TO ORDER | ROLL CALL

Rex Garrison called the meeting to order at 9:10 am and Director Michael Schulz called the roll.

Board Members Present: Rex Garrison, Dr. Pankaj Jain, Jason Bennett, Brett Mansfield
Michelle Alexander,

Board Members Absent: Jim Atwood, Melanie Cole

Part. Telephonically: E. Soehn, Sherry Kaley, Scott Dibiasio, Karey Haisten,

Staff Members Present: Michael Schulz, Caleb Darnell, Cherita Morris, Anna Matlock, Taylor Hilton

ADOPT AGENDA

Motion to adopt agenda was made by Rex Garrison and approved by unanimous voice vote.

REVIEW/APPROVE JANUARY 2022 MINUTES

Motion to approve January minutes was made by Brett Mansfield and seconded by Michelle Alexander. The motion passed by unanimous voice vote.

RULE MAKING HEARING

The Rulemaking Hearing began at 9:03 am and ended at 9:23 am. A transcript of the proceeding will be made available upon receipt from the court reporter present.

LEGAL REPORT (Presented by Taylor Hilton)

1. 2021078141

Opened: 1/10/2022

License Type: Certified Residential Real Estate Appraiser

First Licensed: 7/13/2005

Expires: 1/31/2024

History: 2011 Consent Order for Allegedly Undervaluing a Residential Property; 2017 Consent Order for USPAP Violations; 2019 Consent Order for USPAP violations

Complainant is the homeowner of the property involved in this complaint. Complainant alleges they were scheduled to close on their home on November 1, 2021. Complainant states their lender requested the appraisal in early October. Complainant states, however, Respondent indicated they would not be able to submit their appraisal until November 23, 2022. Complainant states Respondent came to the subject property on or about October 26, 2021, to perform the appraisal. Complainant states they hoped that since Respondent appeared on that date, they would get the appraisal earlier than November 23, 2022, the date previously indicated by Respondent. Complainant states they called the appraisal management company on November 22, 2021, to see if the appraisal would be submitted timely as they had not heard from Respondent. On November 23, 2021, Complainant states the appraisal management company informed them that the appraisal would not be submitted by the original due date. Complainant states they were told the reason the appraisal would be untimely was that Respondent had some questions about a lot included in the sale.

However, Complainant sent a follow-up response stating that after speaking with the other parties involved in the sale, they no longer place the blame on Respondent. Complainant expressed after learning new information they no longer wish to move forward with their complaint. Complainant, likewise, states they now feel this matter against Respondent should be closed. Based on this, Counsel recommends closing this complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

2. **2021079691**
Opened: 1/10/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 1/29/2016
Expires: 1/28/2022
History: None

Complainant is the homeowner of the property involved in this complaint. Complainant alleges on November 17, 2021, their lender contacted the appraisal management company to order an appraisal. Complainant states they were notified the appraisal management company would be sending an appraiser out on the November 30, 2021. Complainant alleges around a week went without Respondent contacting anyone and, so, their lender reached out and inquired about where the appraisal was. Complainant states the weekend prior to closing they "finally" received verification that the appraisal would be conducted soon. Complainant states Respondent expressed to them that the appraisal would be submitted by 8:00 pm the evening of December 14th, 2021, which was the night before scheduled closing. Complainant alleges, however, that this did not happen. Complainant states Respondent made their closing process "stressful."

Respondent states Complainant alleges the incident date of the complaint is November 17, 2021, but that they were not hired until November 23, 2021. Respondent states originally their client, the appraisal management company, requested the due date as December 13, 2021, but that the client agreed to update the due to December 14, 2021, by 8:00 pm. Respondent states they uploaded the report on December 14, 2021, at 3:42 pm, and provided documentation of the submission log. Respondent states they communicated via text with their point of contact on December 7, 2021, and scheduled the appointment for the appraisal on December 11, 2021, between 11:00 am to 12:00 pm. Respondent provided documentation of this communication. Respondent states the report was submitted on December 14, 2021, as agreed between them and their client, the appraisal management company. As such, Counsel recommends closing this complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

3. **2022000351**
Opened: 1/10/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 12/31/1991
Expires: 12/31/2023
History: 2014 Agreed Order for Allegedly Over Valuing a Residential Property in a Revised Report

Complainant is the homeowner of the property involved in this complaint. Complainant alleges the appraisal report was to be delivered by December 11, 2021. Complainant states that as of the morning of December 16, 2021, Respondent had not yet contacted the agent to schedule the inspection. Complainant alleges only after being contacted by the appraisal management company, did Respondent inspect the property on December 16, 2021. Complainant states there was a hard deadline to their contract of December 31, 2021. Complainant states, however, the appraisal was not submitted until late on December 29, 2021. Complainant alleges this only left very little time to complete closing paperwork and the deal ended up falling through. Complainant states the delay ended up costing them, and the sellers, a significant amount of money, time, and heartache. Complainant states they are "very aware" that the real estate market

is extremely busy and that appraisers are trying their best to keep up, but they feel like “13 days to deliver an appraisal report is excessive.”

Respondent states they were hired by their client, the appraisal management company, to complete an appraisal on Complainant’s home on November 29, 2021. Respondent states at that time they were quoting 3-week turnaround timeframes to their clients. Respondent states they had issues with the inspection for the property in question because the property was a rental cabin and only had limited times open for Respondent to inspect the property. Respondent states the inspection was set for December 16, 2021, and once they were able to gain access to the property, they proceeded to finish the assignment by December 29, 2021. Respondent states they apologize for any delays in submitting the report, however, they additionally encountered issues with obtaining comparable verifications with some of the agents in the area which also delayed them being able to finish the report.

Complainant replied to Respondent’s answer. Complainant alleges that while there may have been only a few full days in November and December for Respondent to get access to the rental cabin, Complainant states they believe there were multiple days where there was a “turn” between guests that Respondent could have appraised the property during. Complainant alleges had the appraiser been more efficient they would have been able to get into the property before December 16, 2021.

Based on Respondent’s description of the timeline and explanation for the delay, Counsel recommends closing this complaint.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

4. **2022004311**
Opened: 2/14/2022
Type of License: Certified Residential Real Estate Appraiser
First Licensed: 4/13/2016
Expires: 4/12/2020 (Expired)
History: None

This complaint was referred to the department by the Georgia Board for Real Estate Appraisers. On September 16, 2020, Respondent was fined \$500 by the Georgia Board for failure to report entering into a negotiated plea of guilty. Respondent pled guilty to the felony criminal offense of Criminal Damage to Property in the Second Degree and the misdemeanor offense of Discharging a Firearm Under the Influence.

The Respondent pled guilty to the aforementioned offenses on December 4, 2019. Respondent’s Tennessee Appraisers license expired on April 12, 2020. As such, Counsel recommends closing and flagging this complaint.

Recommendation: Close and Flag.

Commission Decision: The Commission accepted counsel’s recommendation.

5. **2021078401**
Opened: 1/5/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 11/9/1994
Expires: 11/9/2022

History: 2010 Consent Order for Omissions on the Inspection Report; 2011 Consent Order for Allegedly Overvaluing a Property

This complaint was submitted by a Loan Quality Center. Complainant states they recently conducted a review of Respondent's appraisal report and concluded there were errors that possibly lead to a non-credible result.

An expert review was conducted. The expert found the following violations:

Neighborhood Section:

- There is no support for the Property Value Trend. The appraisal reports "Stable " in the neighborhood section and in the 1004MC. However, there is no summary of the analysis undertaken in support of the appraiser's opinion and conclusion in this regard included in the appraisal.
- In addition, there is no summary of the analysis undertaken in support of the appraiser's conclusion of "In Balance" in the "Demand/Supply" section of the appraisal.
- There is a statement included in the 1004MC form that states, "per the information found, it is the opinion of the appraiser that the market is stable and supply and demand is in balance." However, the analysis of the "information found" is not summarized in the appraisal.
- There was no complaint related to this section.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-1(c); SR 1-2(e)(i); SR 1-3(a)(iii); SR 1-3(a)(v); SR 2-1(b); 2-2(a)(x)(5).

Site/Highest & Best Use Section:

- The site is reported to contain 13,068 square feet of site area. However, in the Addendum, it states that subject has two lots; lot 2 with the improvements and lot 11 which is on the other side of a road. Lot 11 is reported to contain 14,375 square feet of site area and is categorized as excess land in the Addendum.
- In the site commentary in the Site section of the appraisal it states that the lot size is typical for the area. Also, the specific Zoning Classification was indicated to be the same as the Zoning Description, "Residential/Single Family Residence Permitted", and the Zoning Compliance is checked "Legal".
- Highest and Best Use (HABU) is checked "Yes, the present improvements are the Highest and Best Use". In the Addendum, it reports that there is a different HABU for each lot. The HABU for lot 2 is indicated to be the current use (single-family home). The HABU for Lot 11 is indicated to be "vacant residential".
- It is not reported as to whether the road that separates lots 2 and 11 is a public or private road. It is not reported as to whether this road is Attaway Lane. It is not reported as to whether the road is an easement.
- Lot 11 is described as excess land. However, it is not explained why lot 11 cannot be subdivided from lot 2, why it is not a buildable site, why it is only excess land. Since lot 2 is 13,068 square feet and is reported to be legally improved with a single-family residence it is not explained why lot 11, which is 14,375 square feet, cannot be separated from lot 2 and be considered and valued as a possible separate buildable site.
- The subject's site is described as typical in size for the area. However, the lot sizes of all four comparables are significantly smaller or larger than the subject's site. There is no commentary on what is typical.
- The Specific Zoning Classification does not appear to be reported, it is the same as the Zoning Description. The Zoning Description is incomplete. There is no commentary on minimum site frontage or minimum lot size. It is not clear as to whether Zoning Compliance is Legal based on lot 2 alone, which is the reported site size, or if it is Legal by the combination of both lots 2 and 11.
- There is no Highest and Best Use analysis. As stated in the aforementioned Addendum, the last page of the Complaint PDF, the HABU is reported to be single-family residential for lot 2, vacant residential for lot 11. However, there is no summary of the support and rationale for those opinions. Also, it is not clear whether the subject property is a legal use based solely on lot 2, the site size of which is reported in the Site section, 13,068 square feet.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-1(b); SR 1-2(e)(i); SR 1-3(b); SR 2-1(a); SR 2-1(b); 2-2(a)(xii).

Sales Comparison Approach Section:

- The Site adjustments applied to comparables 2, 3, and 4 appear to be applied in the wrong direction, positive adjustments are used instead of negative. In the Addendum, there are vacant land sales applicable to the value of the subject's site (\$95,000) and vacant land sales applicable to the value of the site of comparable 2 (\$65,000). The difference is \$30,000, the adjustment is \$25,000. No Location adjustments are applied to comparables 2, 3, and 4. Subject and comparable 1 have waterfront locations, comparables 2, 3, and 4 do not.

- In the Addendum, it states that condition adjustments were based on the effective age of the comparables. The Addendum states that it would be double adjusting to adjust for age and condition.
- All four comparables are in C3 condition, the subject is in C4; however, no condition adjustments were applied.
- There is a lack of support for the adjustments made.
- The appraisal does not summarize the research and analysis conducted in support of the GLA adjustments. The information from local builders and real estate professionals the appraiser cited as their data sources is not provided nor summarized in the report. The formula the appraiser used for the adjustments is not supported by any summary analysis.
- The credibility of the appraiser's site adjustments is undermined as the land sale comparables the appraiser included in the Addendum are all vacant sites and not improved sites like the subject and the comparables.
- In the Addendum, the appraiser states, "The land adjustment was derived from vacant land sales in the area." However, the difference in vacant land sale prices are applicable to vacant sites only not to sites improved with homes. Site adjustments for improved sites must be extracted from sales of improved properties. It is not the value per sq. ft. that must be addressed for the site area differences, rather it is the contributory value of the different site sizes, based on market research of like comparables.
- Only vacant land sales used to support the appraiser's site size adjustment to comparable 2 are included in the appraisal. There are no vacant land sales utilized or referenced for the other comparable sales site adjustments. The appraiser refers to a work file for unreported data. However, the work file applies only to Restricted reports, not Appraisal reports. USPAP requires a summary of the analysis undertaken in support of the appraiser's analysis, opinions, and conclusions. No such summary was included in the appraisal.
- There is no summary of information analyzed in support of the adjustments applied for age to the comparables.
- It is not reported as to how the effective ages of the comparables were determined. There are no comments or summary analysis included in the appraisal in support of this opinion.
- There is no explanation for the last adjustment for Storage Building and extra lot. There is no explanation as to how much value the storage building contributed and how much the extra lot contributed. There is no support for the adjustment for the extra lot or whether it is excess land or not.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-1(a); SR 1-1(b); SR 1-4(a); SR 2-1(a); SR 2-1(b); 2-2(a)(x)(5).

Cost Approach Section:

- The Site Value is reported to be \$85,000 in the Cost Approach section and \$95,000 in the Addendum. Vacant land sales are provided in this Addendum. The Addendum reports that the subject's site value is \$7.27 per square foot (based on the \$95,000 site value). It also states that the \$7.27 value per square foot is within the range per square foot of the prices of the comparable sales. Based on the value of \$85,000 the value per square foot would be \$6.50. There are 3 land sales provided which sold for \$9.25 per square foot, \$2.45 per square foot, and \$6.26 per square foot.
- Besides the issue of the two different site values reported in the appraisal there was no summary analysis included in the appraisal as to how the site value was determined. There are no comments as to why the value per square foot is not closer to the bottom of the range at \$2.45 per sq.ft., or near the top of the range, at \$9.25 per sq. ft. There is no summary analysis included in the appraisal addressing how \$7.27 per square foot was determined from the unadjusted price range from \$2.45 to \$9.25 per sq. ft.
- There are no comments or analysis on the value of lot 11. No value is reported for lot 11.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-1(c); SR 1-4(b)(i); SR 2-1(a); SR 2-1(b); 2-2(a)(x)(5).

Based on the USPAP violations found in Respondent's appraisal by the expert reviewer Counsel recommends a Consent Order requiring Continuing Education to be completed within 180 days of the execution of the Consent Order, and for these classes to be completed in addition to the continuing education minimum requirements for license renewal. Counsel also recommends for the Commission to discuss and decide on the appropriate Continuing Education classes to be included in the Consent Order

Recommendation: Authorize a Consent Order requiring Continuing Education to be completed within 180 days of the execution of the Consent Order, and for these classes to be completed in addition to the continuing education minimum requirements for license renewal. Counsel also recommends for the Commission to discuss and decide on the appropriate Continuing Education classes to be included in the Consent Order.

Commission Decision: The Commission authorized Counsel to issue a Consent Order requiring Respondent to take seven (7) hours CE course in Highest and Best Use/Market Analysis, seven (7) hours CE Report Writing,

and seven (7) hours CE Sales Comparison. This CE will be due within 180 days of the execution of the Consent Order and shall be over and above the CE that is required for licensure renewal.

**6. 2021080681
Opened: 1/5/2022**

License Type: Certified Residential Real Estate Appraiser

First Licensed: 12/13/2000

Expires: 11/30/2022

History: 2010 Letter of Warning

Complainant is the homeowner of the property involved in this complaint. Complainant states they purchased a home on May 21, 2021, and that Respondent performed the Appraisal on April 28, 2021. Complainant alleges Respondent determined the house to be "Structurally Sound." Complainant states a termite inspection was then performed on May 4, 2021, and that there was no evidence of wood-destroying insects observed at this time. Complainant states they then hired another company to do a home inspection. Complainant states this company then discovered termite damage in several locations with "significant visible structural damage." Complainant alleges that had Respondent located the structural damage during the Appraisal that it would have reduced the value of the home by 20% and changed their loan. Complainant alleges that Respondent should know that "it is not IF, but rather when you as a Homeowner will experience Termite Damage." Complainant states the home was 86 years old when it was appraised by Respondent.

Respondent answered the complaint. Respondent states they appraised the home in question on April 28, 2021. Respondent states they saw no evidence of wood-destroying insects at the time of inspection. Respondent asserts, however, that they are not a licensed home inspector or professional exterminator. Respondent states that is why the pest inspection was performed by a pest service, as noted by the Complainant, and not by them. Respondent states the subject property is an older home that was completely remodeled, and that they did not observe any evidence of infestation or structural damage at the time of their inspection.

Complainant sent in a rebuttal to Respondent's answer. In their rebuttal Complainant states that Respondent claimed the property was adequately maintained and structurally sound. Complainant state Respondent noted that they did not observe any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property. Complainant alleges, however, that Respondent is not qualified to comment on structural integrity.

An expert review was completed. The expert found the following violations:

Sales Comparison Approach Section:

- The scope of work does not include the verification of any data presented in the report, testing the accuracy of the data, nor the selection of alternative data.
- In the Addendum, it states that "site adjustments are based on value not necessarily size. The lack of an adjustment indicates similar or equal value." However, the site values are not reported in the appraisal nor how they were determined including the subject's site.
- In addition, the comments infer those adjustments are based on the value of the site as vacant not based on the contributory value of an improved site as extracted from the market.
- There was no complaint related to this section.

This observation reflects non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 1-4(a); SR 2-1(b).

Neighborhood section:

- The appraisal reports "Stable " in the neighborhood section. However, there is no summary of the analysis undertaken in support of the appraiser's opinion and conclusion in this regard included in the appraisal.
- In addition, there is no summary of the analysis undertaken in support of the appraiser's conclusions of Demand/Supply and Marketing Time.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(b); SR 1-2(e)(i); SR 1-3(a)(iii); SR 1-3(a)(v); SR 2-1(b); 2-2(a)(x)(5).

Site/Highest & Best Use Section:

- There is no summary for the support and rationale of the subject property's Highest and Best Use opinion. There is a statement on Highest and Best Use in the Addendum but the four tests of Highest and Best Use are not addressed or analyzed. As such this statement is not considered to be a summary of the support and rationale for the Highest and Best Use.
- There was no complaint related to this section.

This observation reflects non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 2-1(b); SR 2-2(a)(xii).

Cost Approach Section:

- The Cost Approach section, states "The Cost Approach to Value is applicable in this appraisal but not necessary for the development of a credible appraisal and was not developed." This is contradictory. It is not stated why, if the Cost Approach is applicable, it was not developed. It is stated why, if it was not necessary for the development of a credible appraisal, it was applicable.
- There was no complaint related to this section.

This observation reflects non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 1-6(a); SR 1-6(b); SR 2-1(a); SR 2-1(b); SR 2-2(a)(x)(5).

Income Approach Section

- There is no commentary anywhere in the appraisal on the Income Approach including in the Income Approach section of the report. There are no comments on the exclusion of the Income Approach.
- There was no complaint related to this section.

This observation reflects non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 1-6(a); SR 1-6(b); SR 2-1(b); SR 2-2(a)(x)(5).

Based on Respondent's answer to the complaint, and the information provided by the expert reviewer, it does not appear that the complaint contains any substantiated violations. However, the reviewer did find other USPAP violations within the Respondent's report. As such, Counsel is recommending a Letter of Warning pertaining to the USPAP violations found by the expert reviewer.

Recommendation: A Letter of Warning regarding to the USPAP violations found by the expert reviewer.

Commission Decision: The Commission voted to issue a Letter of Instruction regarding the above-referenced violations.

7. **2022004321**
Opened: 2/14/2022
Type of License: Certified Residential Real Estate Appraiser
First Licensed: 7/12/2016
Expires: 6/27/2022
History: None

This is an administratively opened complaint. This was opened after Respondent submitted a notarized Property Inspection Affidavit on January 21, 2022, for their trainee. However, the complaint states this submission was made by Respondent prior to the trainee's initial licensure date of February 3, 2022. The complaint states on January 21, 2022, Respondent's trainee was not a licensed registered trainee and Respondent was not an authorized sponsor of the trainee at the time.

Respondent answered the complaint. Respondent states they inadvertently filled out the "Primary Sponsor Affidavit for Property Inspections" paperwork instead of the initial "Sponsor Affidavit" paperwork for the trainee they are now

sponsoring. Respondent states they did not realize they were certifying their trainee completed their hours, rather than completing the initial "Sponsor Affidavit" paperwork. Respondent states their trainee has not completed hours towards their training and only plans to complete their trainee hours once the trainee is licensed.

Respondent indicates they made a mistake and misunderstood the forms. Respondent states they retract the incorrectly submitted "Primary Sponsor Affidavit for Property Inspections" form and will move forward as instructed.

The correct Sponsor Affidavit was later submitted for Respondent and their trainee on February 2, 2022.

Recommendation: Letter of Caution regarding the Affidavit Rules

Commission Decision: The Commission accepted counsel's recommendation.

8. 2022004331

Opened: 3/21/2022

Type of License: TRN Registered Trainee

First Licensed: 2/3/2022

Expires: 2/2/2024

History: None

This administratively opened complaint. This complaint is related to complaint #2022004321 described in #7. Respondent is the aforementioned registered trainee. Counsel recommends the same Letter of Instruction be sent to Respondent as is sent to their Sponsor from complaint #2022004321.

Recommendation: Letter of Caution regarding the Affidavit Rules

Commission Decision: The Commission accepted counsel's recommendation.

9. 2022003501

Opened: 2/22/2022

Type of License: Certified Residential Real Estate Appraiser

First Licensed: 1/17/2019

Expires: 1/16/2023

History: None

This is an administratively opened complaint. This complaint was opened after Respondent submitted a notarized "Property Inspection Affidavit" for their trainee. Specifically, the affidavit states the trainee has achieved 500 hours of experience within the time since they were licensed. However, the trainee obtained their license only four days prior to the Property Inspection Affidavit, indicating 500 hours of experience for the trainee, which was submitted by Respondent. The trainee was licensed on January 20, 2022, and the affidavit was dated January 24, 2022. Since it would not have been possible for the trainee to complete the required 500 hours within four days, this complaint was opened.

With their submitted "Property Inspection Affidavit" Respondent stated in an email that although the trainee was only recently registered, they had been working with Respondent since September 1, 2021. Respondent stated in their email since September 1, 2021, the trainee had accompanied them and worked with them on about 250 appraisals. Respondent additionally stated in accordance with the USPAP competency rule they believed the trainee had obtained adequate experience and education to be able to complete non-complex properties without help.

Respondent's attorney answered the complaint. The response states the allegations made against Respondent and their trainee arise from a misunderstanding of the application process and the requirements of the affidavit. Likewise, the response states they believe their January 24, 2022, email to the program was misinterpreted. The response explains that the trainee in question had been shadowing Respondent since September 1, 2021. Respondent states it was their misunderstanding that since their trainee had the required education, and had shadowed Respondent from September 1, 2021, to January 21, 2022, on 12-15 inspections a week, that the trainee had obtained the required experience.

In response to the statements made in Respondent's January 24, 2022, Respondent's attorney states that the trainee in question only ever shadowed Respondent on appraisals. The response emphasizes that the trainee was never requested

to perform any appraisal work nor has the trainee ever conducted any appraisals for Respondent. Respondent's attorney states that every single appraisal mentioned in Respondent's January 2022 email was rendered and developed by Respondent solely. The response states the trainee attended these appraisals with Respondent for learning purposes only and asserts the most the trainee ever did was aid Respondent in physically measuring some properties. The response alleges as such, Respondent did not use an unlicensed trainee to perform appraisal work. As such, Respondent asks for this misunderstanding to be dismissed, and states they will move forward as instructed.

Recommendation: Letter of Caution regarding the Affidavit Rules, as well as the Rules pertaining to Unlicensed Activity

Commission Decision: The Commission accepted counsel's recommendation.

10. **2022003511**
Opened: 2/22/2022
Type of License: Registered Trainee
First Licensed: 1/20/2022
Expires: 1/19/2024
History: None

This administratively opened complaint. This complaint is related to complaint #2022003501 described in #9. Respondent is the aforementioned registered trainee. Counsel recommends the same Letter of Caution be sent to Respondent as is sent to their Sponsor from complaint # 2022003501.

Recommendation: Letter of Caution regarding the Affidavit Rules, as well as the Rules pertaining to Unlicensed Activity

Commission Decision: The Commission accepted counsel's recommendation.

CASES TO BE REPRESENTED:

11. **2019090591**
Opened: 11/2/2019
License Type: Certified Residential Real Estate Appraiser
First Licensed: 12/31/1991
Expires: 12/31/2021
Disciplinary History: None

Complainant is a Tennessee resident. Respondent is a licensed real estate appraiser.

Complainant alleges that the Respondent failed to use appropriate comparables during their appraisal. The homes the Respondent used were tear downs while Respondent's home is a complete rehabbed unit. The comparables use were listed as "homes sold within the year in my neighborhood" but they were actually several miles away and not in the same neighborhood at all. Respondent allegedly used incorrect facts and produced a value of the home that was almost as low as the tax value. Complainant states that due to this appraisal the lender pulled the loan and is requiring them to pay \$500 for a full appraisal.

Respondent filed a response stating the report-type requested was a 2055 exterior only inspection residential appraisal report. The purpose of the assignment was to provide a value of the property based on a viewing from the street only and not to verify the condition of the property. The information available to the Respondent was an old MLS listing from 2007 and public records. These were the only facts available to the appraiser. The use of the MLS for the appraiser was to confirm the GLA stated in the public records and also the information that the property had been renovated at the time in 2007. The public records showed two property transfers on 9/28/18 of \$238,000 and 244,000. These transfer amounts were consistent with the total tax appraisal of \$228,000. These transfers and tax appraisals were made after the property was renovated in 2007. Any subsequent condition changes made to the subject property are unknown to the Respondent

who only viewed the property from the street. With respect to the comparables, they were 1.20 miles away and each was located within the competitive neighborhood boundaries. The choice of the comparables were not limited to the subject's neighborhood, but was correctly limited to the boarder competitive neighborhood. After the appraisal was completed, a request for reconsideration was submitted with other comparables. The average distance to these sales was 0.98 miles and all but one was located within blocks of the comparables included in the appraisal. The average ratio of tax appraisal to recorded sales price is 0.75 with a range of 0.67 to 0.83. The ratio in the subject appraised value is 0.81 which is within the indicated range; however, the tax appraisals clearly indicate a significant difference between the subject property and these sales and would not consider these sales comparables to the subject. The Respondent has no information which would indicate these are comparable properties. The Respondent recommended that Complainant obtain a second opinion in their response to the request for reconsideration.

REVIEWER CONCLUSIONS

- **Sales Comparison Approach Section – Non-Compliance with SR 1-4(a); SR 2-2(a)(viii)**
 - Adequate analysis on how the noted adjustments were derived was not provided in the report or work file
 - No support was provided in the report or work file indicating that a recognized method or technique was utilized in determining the adjustments, or the adjustment amounts.
 - Due to the lack of support and analysis for the adjustments utilized, the report does not provide sufficient information to enable the clients and intended users to understand the rationale for the adjustment amounts, which in turn limits the support for the opinions and conclusions provided in the sales comparison approach to value.
- **Cost Approach: Site Value Section – Non-Compliance with SR 1-1(a); SR 2-2(a)(viii)**
 - A \$65,000 opinion of site value was reported in the cost approach section of the 2055 appraisal report, but there was no evidence or support in the report or work file showing that the site value has been developed by an appropriate method or technique.
- **Reconciliation Section – Non-Compliance with SR 1-6**
 - Reconciliation addresses the quality and quantity of data available and analyzed within the approaches used. It also allows the appraiser to reconcile the applicability and relevance of the approaches, methods, and techniques used to arrive at the value conclusions. The report states, "The Sales Comparison Analysis is used since buyers rely primarily on direct comparison. The Cost and Income Approach were not used as only a drive by analysis was performed." These statements provide minimal reporting with no analysis to support the opinions and conclusions provided.

New Information: This matter was sent to Respondent for a Conditional Dismissal in February 2020, recommending Respondent complete a Residential Site Valuation Course (15 hours) and a Sales Comparison Course (30 hours). Respondent rejected the Conditional Dismissal offer.

Recommendation: \$1,000 civil penalty for violation of the following USPAP violations:

- **Sales Comparison Approach Section – Non-Compliance with SR 1-4(a); SR 2-2(a)(viii)**
- **Cost Approach: Site Value Section – Non-Compliance with SR 1-1(a); SR 2-2(a)(viii)**
- **Reconciliation Section – Non-Compliance with SR 1-6**

Decision: The Commission voted to accept Counsel's recommendation of \$1,000 Civil Penalty. In addition, the Commission voted to issue continuing education consisting of a Residential Site Valuation Course (15 hours) and Sales Comparison Course (30) hours, to be completed in one hundred eighty days (180) above and beyond what is required for licensure.

New Information:

Counsel spoke with Respondent and reviewed the file. Respondent expressed they were not previously intending to reject the Conditional Dismissal, rather, they were attempting to inquire with the previous counsel if the classes required in the Conditional Dismissal were open for discussion. Respondent expressed to Counsel that they wanted to move forward with the Conditional Dismissal. Respondent alleges, however, they never heard back from previous Counsel after asking their question pertaining to the required classes. Respondent states they did not hear from the Department or Commission again until they received a proposed consent order in the mail. Respondent states they responded to the proposed Consent Order with questions but once again never heard back. Respondent states, as such, they believed the matter to be closed since that was over two years ago and there had been no other communication until current Counsel reached out to them. It appears there was some miscommunication between Respondent and the previous counsel handling this case

and, as such, this complaint has remained unresolved. Respondent has been very responsive to Counsel and wants to resolve this matter.

Due to the circumstances in this matter, and the miscommunication between Respondent and previous counsel concerning the Conditional Dismissal, Counsel is recommending the Commission authorize Counsel to re-offer a Conditional Dismissal to Respondent. Counsel is recommending the Commission reauthorize Counsel to offer a Conditional Dismissal to Respondent

New Recommendation: Counsel is recommending the Commission reauthorize Counsel to offer a Conditional Dismissal to Respondent. Counsel is recommending for the Commission to discuss and pick the appropriate classes to be included in the Conditional Dismissal.

New Commission Decision: The Commission accepted counsel's recommendation.

12. 2018062301
Opened: 8/31/2018

Licensing History: Unlicensed

Disciplinary History: None

Complainant alleges unlicensed activity on a mass nationwide appraisal wherein hundreds of millions of dollars of cell phone tower property was appraised.

Review shows approximately a dozen cell phones tower properties in the state of Tennessee were evaluated. Extensive expert review conducted herein. Counsel has corresponded with the attorney representing Respondent and Respondent has submitted numerous documents as requested by Counsel.

After review, it was found that Respondent is not licensed in Tennessee but signed a report stating he was the certified appraiser on the mass multi-state valuation and that he received assistance from several named individuals. One of the individuals received a temporary license from the Commission for the purposes of this transaction and later became fully licensed in the state of Tennessee. Said individual responded to request for production by counsel and the expert reviewer reviewed this matter.

The alleged "Appraisal Report" was provided to the expert reviewer as well as over 1,000 pages of supporting documentation. The appraisal report was identified as a "Valuation of Certain Assets of _____." The Client had asked an accounting firm to provide a retrospective valuation services related to its recapitalization transaction as of July 29, 2016 ("Valuation Date"). The objective of the alleged appraisal report was to assist the Client in estimating the fair value of the acquired identified tangible and intangible assets ("Assets"). The valuation will conclude the fair value and fair value of one unit in the Company on a minority, non-marketable per unit basis. Page 4 of the report stated, "This valuation analysis was conducted for financial reporting purposes in connection with U.S. GAAP and ASC 805, Business Combinations and ASC 805, Fair Value Measurements."

The expert reviewer found that the alleged Appraisal Report constituted a Fair Value Report with no association to USPAP.

The expert reviewer concluded his review by finding "This report is a disservice to USPAP as well as an appraisal report of real property as defined by Market Value. Although the report is disguised to represent a market value appraisal report with respect to its construction and included USPAP DEFINITIONS, its clarity is deceiving."

Recommendation: Dismiss.

Decision: The Commission voted to authorize a Consent Order with a one thousand dollar (\$1,000.00) civil penalty per property that had been appraised and to open a complaint against the temporary licensee.

NEW INFORMATION

Counsel met with Respondent's Counsel on October 28, 2019. Respondent states they now require all appraisal professionals who provide significant assistance to an engagement sign the certification of each appraisal report.

Respondent agrees to attend courses related to the violations. Respondent proposes completion of a 7-hour USPAP course for non-residential real property and the 4-hour "that's a violation" course.

New Decision: The Commission voted to keep their original recommendation, and to open an administrative complaint against the individual with a temporary license.

New Information: The Respondent's counsel has provided additional information and stated the anonymous complaint submitted the exact same complaint to the Commission was sent to other real estate boards or commissions in 12 other states in the United States. This complaint was filed by a disgruntled former employee who was on a team of a large accounting project. The former employee also tried to take business when departing from the firm and when the former employee was unsuccessful the former employee started to submit complaints in the other states. In nine of the 12 other states the matter was closed, not acted upon or dismissed with no other enforcement action. In one other state, the matter was closed with a letter of caution. The Respondent is contesting any enforcement action by the remaining states, including Tennessee. The Respondent's firm was retained by a communication company to perform a valuation of certain assets (cell towers) following a transaction that required an allocation of the refinancing "purchase price" after the transaction was closed. This was not an appraisal required by a party prior to a sale or any transaction. The Respondent's firm valued the client's real property with FASB requirements (including Accounting Standards Codification 805. The engagement was not to provide an appraisal of real property. The task was simply to allocate an already established "purchase price" that was already agreed to in a prior transaction that was closed before the Respondent's firm's engagement. The Respondent does not hold a Tennessee Appraiser License and did not function as a real estate property appraiser in the engagement. The work performed by the Respondent is not fall under the definitions of an appraisal assignment as defined under the Tennessee appraisal statute under Tenn. Code Ann. §§ 62-39-102(2) "Appraisal" means the act or process of developing an opinion of value of identified real estate. That opinion of value may be numerically expressed either as a specific amount, as a range of numbers or as a relationship to a previous value opinion or other numerical benchmark and 62-39-102(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. This was not an engagement to determine an appraised value, but a value. This entire project was an internal accounting function and not a real estate appraisal function. Tenn. Code Ann. § 62-39-102(9) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report and 62-39-102(10) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration. Tenn. Code Ann. § 62-39-102(5) "Appraisal report" means any communication, written or oral, of an opinion of value of identified real estate. For the purposes of this chapter, an appraiser who testifies as to the value of an identified real property is deemed to have provided an oral appraisal report. The Respondent was the team lead in the large project and performed services for an internal accounting function for a corporation and this was not a real estate appraisal conducted by the Respondent or the Respondent's firm. Additionally, in Tennessee cellular telephone towers are designated as public utility property pursuant to Tenn. Code Ann. § 67-5-501(8).

In the event of any issue, the firm made sure there was a licensed Tennessee Appraiser on the team and the team member had obtained the necessary license from the Commission. This team member later obtained the permanent appraiser license in Tennessee.

New Recommendation: Close.

New Decision: The Commission elected for Counsel to resubmit the matter to the original reviewer and request more detailed information regarding the appraisal, including the details of the cell tower and land valuation, if applicable. This matter has been deferred until the next Commission meeting.

New Information:

This complaint is related to 202002971. Commission last voted for the original expert reviewer to re-review the report and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation, in the November 2020 Commission meeting. However, the expert who originally reviewed the report is no longer completing reviews for the Department. Likewise, the Department does not currently have an expert retained that is able to conduct a second review on the report in question.

The Department is in the process of procuring additional expert reviewers through the contract and solicitation period. However, as this matter is of immediate importance to Commission, Counsel decided to bring this matter to the Commission for a discussion of how to approach the present issue without a secured reviewer at this time.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint.

13. **2020002971**
Opened: 1/13/2020
License Type: Certified General Real Estate Appraiser
First Licensed: 2/15/2018
Expires: 2/14/2022
Disciplinary History: None

This complaint was opened administratively.

Respondent failed to comply with 1255-06-.02(4) for failing to a list of each specific parcel of real property with the application for the temporary practice permit.

Respondent filed a response via their attorney stating that the valuations were not appraisals. Respondent further states that even if the valuations were considered real estate appraisals, they were conducted in compliance with the regulations governing temporary licenses permitted by the ruled promulgated by the Commission. Respondent obtained the correct license to perform the work and therefore the complaint should be dismissed. Respondent states that Tenn. Comp. R. & Reg. 1255-06-.02(2) provides that a nonresident of Tennessee may apply to the Commission for a temporary practice permit to perform a single appraisal and for purposes of this rule only, "assignment" shall mean one or more real estate appraisals and written appraisal reports which are covered by a contract to provide real estate appraisal service. (Tenn. Comp. R. & Reg 1255-06-.02(1). Respondents relies on the above referenced rule to support the premise that a temporary permit may cover the appraisal of more than one property for a single assignment. Respondent further states that they did not provide the Commission with a list of each property included in the assignment as required by Tenn. Comp. R. & Reg. 1255-06-.02(4) because the online forms did not allow them to enter multiple addresses when they submitted their application for the temporary license.

Recommendation: \$1,000 civil penalty for violation of 1255-06-.02(4).

Decision: The Commission accepted Counsel's recommendation.

New Information: This complaint is related to 2018062301. Commission last voted for the original expert reviewer to re-review the report and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation, in the November 2020 Commission meeting. However, the expert who originally reviewed the report is no longer completing reviews for the Department. Likewise, the Department does not currently have an expert retained that is able to conduct a second review on the report in question.

The Department is in the process of procuring additional expert reviewers through the contract and solicitation period. However, as this matter is of immediate importance to Commission, Counsel decided to bring this matter to the Commission for a discussion of how to approach the present issue without a secured reviewer at this time.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint.

REPORT OF EXPERIENCE INTERVIEW[S]-RECOMMENDATIONS

Motion to approve experience interviews/recommendations was made by Brett Mansfield and seconded by Michelle Alexander. The motion passed by unanimous voice vote. Those approved include Kory Webb, Gary Miller II, Gabriel Myers, Jayce Stock, Forrest Arnold, Jeremy Richardson, Rachel Young, Benjamin Floyd, Marissa Miller, and Jacob Joyner.

Motion to approve conditional interviews/recommendation for Jennifer Robinson and John Schmidt was made by Brett Mansfield and seconded by Rex Garrison. The motion passed by unanimous voice vote.

EDUCATION REPORT

April 5, 2022 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Type	Hours	Recommendation
Appraiser ELearning LLC	2502	Digging into CMAs & Appraisals	Ben Maxwell	CE	3	Approve
Columbia Institute	2558	Mastering Residential Appraisal Review	Alisha Tarwater	CE	4	Approve
American Society of Appraisers	2562	Identifying Comparable Properties	Meredith McCann	CE	7	Approve
EAST TENNESSEE STATE UNIVERSITY	8	Real Estate Appraisals-FNCE 4320	Rex Garrison	QE/CE	42	Approve

Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Tally Williams	Cooke Real Estate	Better To Be Safe Than Sorry	7	CE	Approve
Tally Williams	Cooke Real Estate	Appraisal Review of Residential Properties	7	CE	Approve
Tally Williams	Cooke Real Estate	Methodology and Application of Sales Comparison	7	CE	Approve

Motion made to approve the education was made by Dr. Pankaj Jain and seconded by Michelle Alexander. The motion passed by unanimous voice vote.

DIRECTOR'S REPORT

Financial Statements

Director Schulz briefed the Commission regarding the budget.

NEW BUSINESS

Complaint Process Discussion

Anna Matlock, Associate General Counsel provided definitions of the following levels of complaints:

- **Letter of Instruction:** Reserved for instances that does not have substantial error and the Commission would like the individual to be more aware of. Letter of Instructions does not go on the national registry.
- **Letter of Caution:** Reserved for affidavits when individuals are unable to pay the fees for the registry and continuing education. Letter of Caution does not go on the national registry.
- **Letter of Warning:** Letter of Warning goes on the national registry, meaning there has been a violation but the violation does not rise to the extent of a consent order where we are requiring the individual to do some type of corrective action. Letter of Warning does not require you to do anything.
- **Consent Orders:** Reserved for the more serious violations. This Board favors consent orders to provide education courses and levy civil penalties. Consent orders can be a suspension or a revocation of a license. Anytime that we are asking a individual to complete something, where they can say either yes or no-that's going to go out via consent order.

PAVE

No Discussion

Below Grade Measurement Guidelines

Property Appraisal/Valuation Equity Report

OLD BUSINESS

Short Term Rentals

ADJOURNMENT

Motion made to adjourn meeting at 11:45 am was made by Rex Garrison and seconded by Brett Mansfield.