



REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831

**Meeting Minutes for March 20, 2023
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on March 20, 2023, and the following business was transacted:

BOARD MEMBERS PRESENT: Jim Atwood, Brett Mansfield, Nelson Pratt, Sandra Tuck, Dr. Pankaj Jain, Eric Robinson, Francie Mello, Will Haisten

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Glenn Kopchak, Anna Matlock, William Best, Megan Maleski, Taylor Hilton

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Director Glenn Kopchak called the meeting to order at 9:01 am and took roll call.

AGENDA

Jim Atwood made a motion to adopt the agenda. This was seconded by Brett Mansfield. The motion passed by unanimous voice vote.

MINUTES

Jim Atwood made a motion to adopt the minutes from November 15, 2022. This was seconded by Sandra Tuck. The motion passed by unanimous voice vote.

EXPERIENCE INTERVIEWS

Mr. Jim Atwood

Name	Upgrade Type	Recommend	Board Vote
Kaci Dildine	Licensed	Yes	Yes
Russ Henderson	CR	Yes	Yes
Ayubkhan Telwar	CR	Yes	Yes
Sandi Irons	CR	Yes	Yes
Latoya Crutcher	CR	Yes	Yes

Cathy Hunnicutt	CR	Yes	Yes
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Mr. Brett Mansfield

Name	Upgrade Type	Recommend	Board Vote
Nikolas Arroyo	CR	Yes	Yes
John Carson	CR	Yes	Yes
Brian Lynch	CR	Yes	Yes
Benjamin Heighton	CR	Yes	Yes
David Siler	CG	Yes (Conditional)	Yes

Mr. Nelson Pratt

Name	Upgrade Type	Recommend	Board Vote
Kathleen Brown	CG	Yes	Yes
Robert Harrell	Licensed	Yes	Yes
Terry Merritt	Licensed	Yes	Yes
Sul Young Shin	CR	Yes	Yes
Kerry Mayes	Lic	Yes	Yes
Robert Hamilton	CR	Yes	Yes

Ms. Sandra Tuck

Name	Upgrade Type	Recommend	Board Vote
Marcia Brien	CR	Yes	Yes
Jared McDaniel	CR	Yes	Yes
Ka'la Markins	CR	Yes	Yes
Brandon Coffey	CR	Yes	Yes
Nathan Lail	CR	Yes	Yes
Scott Wells	CR	Yes	Yes

Brett Mansfield made a motion to approve the above interview recommendations. This was seconded by Jim Atwood. The motion passed by unanimous voice vote.

APPLICATION REVIEWS

Donald W. Ellis (Re-Present): Jim Atwood made a motion to accept and approve Mr. Ellis's application. This was second by Brett Mansfield. The motion passed by unanimous voice vote.

EDUCATION REPORT

March 2023 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Type	Hours	Recommendation
American Society of Appraisers	2612	2022 International Conference	Multiple	CE	14	Approve
Appraiser eLearning	2618	Appraising Limited Market Properties	Thomas Humphreys	CE	4	Approve
TN Chapter of the Appraisal Institute	2626	Advancing the Appraisal Profession, 2022 (Mini LDAC)	Miker Tankersley	CE	4	Approve
American Society of Farm Managers and Rural Appraisers	2630	ASFMAR Annual Meeting 2022	Brian Stockman	CE	7	Approve
American Society of Farm Managers and Rural Appraisers	2631	Rapid Fire Case Studies 2022	Brian Stockman	CE	6	Approve
American Society of Appraisers	2634	ANSI Standard Z765-2021	Michael Orman	CE	4	Approve
American Society of Appraisers	2635	Technology in Residential Appraising	Michael Orman	CE	7	Approve
American Society of Appraisers	2636	The Appraisal vs the Reconsideration of Value	Michael Orman	CE	3.5	Approve
TN Chapter of the Appraisal Institute	2637	Aerial Inspections for Real Estate Appraisers	Lamar Ellis	CE	7	Approve
Melissa Bond	2638	Cost Approach & Supporting Adjustments	Melissa Bond	CE	7	Approve
Appraiser eLearning	2639	How to Appraise Solar Panels	Bryan S Reynolds	CE	7	Approve
Calypso	2642	Acquainting Ourselves with the ANSI Standard: Measuring Residential Property Properly	Steven Maher	CE	7	Approve

TREES/TAPS	2644	HP12-C Calculator Course	David Powell, Claude Weems	CE	8	Approve
Appraiser eLearning	2646	2023 ACTS Day 2	Multiple	CE	7	Approve
Appraiser eLearning	2647	2023 ACTS Day 1	Multiple	CE	7	Approve
American Society of Farm Managers and Rural Appraisers	2648	Cost Estimating	Doug Hodge	CE	8	Approve
American Society of Farm Managers and Rural Appraisers	2649	Income Approach Applications	Doug Hodge	CE	4	Approve
Appraiser eLearning	2650	Elimination of Bias and Cultural Competency for Appraisers – with Real World Relevance	Peter Christensen	CE	3	Approve
Appraiser eLearning	2651	Desktops 101: Navigating GSE Appraisal Modernization	James Baumber	CE	4	Approve
American Society of Farm Managers and Rural Appraisers	2652	Appraising Ag Facilities: Feedlot Seminar	Brian Stockan	CE	4	Approve
American Society of Farm Managers and Rural Appraisers	2653	Introduction to Vineyard and Winery Valuation	JoAnn Wall	CE	8	Approve
American Society of Farm Managers and Rural Appraisers	2657	Property Rights Why Haven't I Heard This Before	Doug Hodge	CE	8	Approve
Melissa Bond	2326	Bifurcated, Hybrids, Evaluations	Melissa Bond	CE	4	Approve
Calypso Continuing Education	2658	Cultural Competency and Elimination of Bias in Appraisals	Francis Finigan	CE	3	Approve

Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Betty L. Moses	IAAO	500- Assessment of Personal Property	33	CE	Approve

Dr. Pankaj Jain made a motion to approve the education committee’s recommendations. This was seconded by Nelson Pratt. The motion passed by unanimous voice vote.

ELECTION OF OFFICERS

Jim Atwood made a motion to nominate Brett Mansfield for Chairman of the Board and Sandra Tuck and Vice Chairman of the Board. This was seconded by Nelson Pratt. The motion passed by unanimous voice vote.

DIRECTOR’S REPORT

Budget Report

Director Kopchak noted the large expenditures under “Other” for August are the Appraisal Subcommittee National Registry Fees, in addition to technology expenses in August, due to upgrading the cloud and other IT related support expenditures. Director Kopchak pointed out that all other programs saw a slight increase along the same lines. Next, Director Kopchak noted under “Other”, a transaction for the Federal Financial Institutions Examinations Council’s (FFIEC) Appraisal Subcommittee fees with account 725, known as “State Professional Services”, which may also include any charges from another State Agency who performs work for the program.

AARO Spring Conference

Jim Atwood made a motion to send board members Brett Mansfield and Sandra Tuck and disciplinary action attorney Taylor Hilton to the AARO Spring Conference. This was seconded by Eric Robinson. The motion passed by unanimous voice vote.

LEGAL

Legal Report

- 2022037921
 Opened: 10/3/2022
 License Type: Certified Residential Real Estate Appraiser
 First Licensed: 5/3/1999
 Expires: 1/31/2024

History: 2009 Final Order for allegedly overvaluing a property (Multiple combined complaints); 2011 Consent Order for allegedly overvaluing a property, 2022 Consent Order for USPAP violations

Complainant is a bank Respondent completed an appraisal for. Complainant states they believe the report in question contained deficiencies. Specifically, the complaint alleges that Respondent failed to support location and/or locational differences adequately. Complainant states they made multiple attempts to reach Respondent and have them make changes to the report, but the revision process was unsuccessful.

Respondent states the property did not warrant a view adjustment, so one was not included in the report. Respondent says they believe all comparables were appropriate and supported. Respondent states they disagree with Complainant's allegations about the revision process being unsuccessful. Respondent states the appraisal log they provided shows they turned in the report, then reviewed two additional sales later requested by Complainant, and finally the appraisal report was then re-submitted and accepted as complete by the client. Respondent also states that the client sent correction requests on July 26, 2022, and July 28, 2022. Respondent states they completed and submitted those revisions on July 26, 2022, and July 29, 2022, respectively.

An expert conducted a review. The expert found the report credible and without substantial compliance issues with USPAP. The expert recommended that no education or formal discipline be assessed based on their review. As such, Counsel recommends dismissing the complaint with no action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted Counsel's recommendation.

2. 2022041751
Opened: 11/7/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 12/23/1991
Expires: 12/23/2023
History: None

Complainant is the homeowner of the property appraised that is in question in the complaint. Complainant states Respondent performed the appraisal on September 20, 2022, and claims there were numerous instances of incorrect information in the report. Complainant states they provided Respondent with documentation and correction requests on October 4, 2022. Complainant states, however, Respondent

refused to make any changes to the report. Specifically, the Complainant states, Respondent had the incorrect lot number and size, incorrect garage and driveway descriptions, incorrect finishings, and incorrect property condition at the time of purchase, among other things. However, Complainant states that the Respondent expressed via their client (the Lender), that they refused to make any changes to their report.

Respondent states they believe the market data supported the value indicated in the appraisal. Respondent says they made any proper revisions requested by their client. Respondent states no one involved provided any additional sales/market data for review, and they do not believe there was any basis for changing their final opinion on value.

An expert conducted a review. The expert reviewer determined that there were no observations in Respondent's report that reflected non-compliance with 2020/2021 USPAP Standards and that the appraisal report was credible. The expert recommended that no education or formal discipline be assessed based on their review. As such, Counsel recommends dismissing the complaint with no action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted Counsel's recommendation.

3. 2022046211
Opened: 11/21/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 11/10/1992
Expires: 11/10/2024
History: None

Complainant states the original due date for the appraisal report was October 4, 2022, but Respondent did not schedule the appraisal until October 8, 2022. Complainant initially expressed difficulties in receiving Respondent's appraisal report. However, Complainant has since followed up, stating they no longer wish to pursue their complaint and requested to withdraw it. Respondent did answer the complaint stating that upon reviewing the property, they did not believe they could complete a credible report and informed their client (the Lender) of this immediately. Respondent states they requested to withdraw from the order in question.

Based on Complainant's request to withdraw their complaint and Respondent's answer, Counsel recommends dismissing the complaint without action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted Counsel's recommendation.

4. 2022041221
Opened: 10/10/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 10/4/1991
Expires: 10/4/2023
History: None

Complainant states Respondent signed off on the appraisal of their home without noting the roof needed repair. Complainant alleges Respondent was negligent in missing the need for the repair. However, Complainant has since requested to withdraw their complaint against Respondent. Since Complainant has requested to withdraw their complaint, as well as the complaint being based on a roofing repair issue, Counsel recommends dismissing the complaint without action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted Counsel's recommendation.

5. 20220550551
Opened: 12/19/2022
License Type: Appraisal Management Company
First Licensed: 7/1/2011
Expires: 7/31/2023
History: None

Complainant states they had an FHA new construction, subject to completion appraisal. Complainant states they received the final inspection 1004D on the property. Complainant states they asked Respondent to have the appraiser convert the report to a different form. Respondent informed Complainant they would reassign the matter to another appraiser to complete the report in the requested format.

Respondent states the lender requested the matter to be reassigned to another appraiser to complete the appraisal on the desired form. Respondent says they did reassign the appraisal as soon as Complainant requested it. Respondent states they are unclear on what Complainant is complaining about and, as such, request the Commission to dismiss the complaint.

There does not appear to be an alleged violation in the complaint or any observable violation in the provided information. As such, Counsel recommends dismissing the complaint without action.

Recommendation: Dismiss.

Commission Decision: The Commission accepted Counsel's recommendation.

6. 2022048531
Opened: 12/12/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 11/9/1995
Expires: 11/30/2023
History: 2014 Letter of Warning

Complainant is a bank Respondent completed an appraisal for. Complainant alleges they observed multiple possible deficiencies in the report. Complainant states the bank's review department attempted to correct those deficiencies through their normal review/revision request process but did not receive a reply from Respondent. Complainant states that they then sent the matter to their Appraisal Investigation Team. Complainant explains they made multiple phone calls and emails to Respondent, attempting to open the lines of communication so they could handle it in-house. Complainant states Respondent eventually responded via email and informed them they were ill and would call them the following day. Complainant says, however, Respondent never called. Complainant states, as such, they made additional phone calls and emails to Respondent on three subsequent dates. Complainant states their Exclusionary Committee has since voted to exclude Respondent from future work due to their lack of communication.

Respondent states they deny any USPAP violations in their report. Respondent states they verified all plans with the home builder on a "lengthy" phone call. Respondent says the builder directed them to a webpage containing all the property plans. Respondent alleges Complainant did not comply with their requirements of uploading the plans for the home in their appraisal request. Respondent alleges Complainant violated the required "firewall" between parties with a financial interest in the loan by not uploading the plans to Respondent. Respondent states this resulted in the builder providing another appraiser with a different set of property plans to get a higher final value than Respondent's final value opinion. Respondent alleges the complaint has no merit, that they did their due diligence in creating the report, and requests the Commission dismiss the complaint as they complied with USPAP.

Respondent says they do not have any record of the alleged unanswered email attempts stated in the complaint. Respondent provided copies of emails between

them and Complainant. In an email provided by Respondent, they requested Complainant to dismiss their complaint and asserted they did not violate USPAP with their report. Respondent states any deficiencies referred to in the complaint were addressed already and placed in the addendum of the appraisal. Respondent states they provided specific responses to each question Complainant had. Respondent says the only thing Complainant may have considered deficient is that they would not include sales from a superior market and remove the lower sales in the report. Respondent alleges this was the motive behind the complaint. Respondent asserts they did not violate USPAP regulations, and that the basis of their final value opinion was supported and based on the documents given to them by the home builder.

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

Sales Comparison Approach Section:

- Analysis of and reporting of data for sale 1 appeared to be incorrect, i.e. date, price, number of units.
- Data for sale 1 was incorrect and was stated to be the most relied upon. It appears that care was not taken as to the identification of the proposed cabin for this lot.
- The property identification appears to be for a different cabin as cost data attached to appraisal is labeled for lot 2 rather than subject lot 3.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1 (b & c), SR 2-1(a).

Income Approach Section:

- Income approach in original appraisals lacked comparable support.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-4 (c)(i).

Reconciliation & Conclusion Section:

- Certain issues set out in complaint and appraiser's response were contradictory and beyond the scope of this review to address.
- The builder cost data listed in the first report was labeled for lot 2 while the subject is lot 3 so that improvement description in appraisal is likely for a different cabin.
- A brief summary of noted errors is as follows:
 - o Identification shows occupant as owner. Home is proposed so correct check box for vacant should have been used or explanatory comments provided.

- Contract data appears to be for a different lot (no. 2 rather than no. 3) Therefore it is likely that the cost data, building size etc. is for a different cabin.
- Neighborhood section price trend rated as stable, yet most area sales and resales support increasing prices at time of appraisal.
- Sale 1 shows sale price at \$599,000 which was a historical listing price. Sale date and price does not match MLS or deed data. This property had two cabins which is not discernible from the appraisal. Sale 1 reporting limits user reliance on credibility of appraisal. Reviewers work as to sale 1 could not locate any information contrary to the property offering 2 cabins. Appraisal information does not report that property offers two cabins. The MLS sheet clearly sets out the two cabins with sizes etc.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1 (b & c), SR 2-1(a).

The expert reviewer states that based on their findings, they recommend Respondent take Continuing Education courses in Residential Sales Comparison and Income Approaches. As such, 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.

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 that the Commission discuss and decide on the appropriate Continuing Education classes in the Consent Order.

Commission Decision: The Commission voted to authorize issuing a Consent Order requiring Thirty (30) Hours in Sales Comparison and Income Approach CE, as well as the Fifteen (15) Hour USPAP CE Course all to be completed within 180 days of the execution of the Consent Order and to be in addition to the Continuing Education minimum requirements for license renewal.

7. 2022030061
 Opened: 8/8/2022
 License Type: Certified Residential Real Estate Appraiser
 First Licensed: 9/27/2002
 Expires: 6/30/2023
 History: 2019 Consent Order

Complainant states they believe Respondent is purposefully “low-balling and redlining” communities in Memphis. Complainant states Respondent appraised two properties on April 5, 2022, and July 15, 2022, respectively. Complainant alleges in both relevant reports, Respondent under-valued the homes due to their location. Additionally, Complainant states Respondent's “low-balling” caused a veteran attempting to purchase one of the homes to be unable to get funding.

Respondent states they disagree with the complaint and deny they were “low-balling” or “redlining” communities in Memphis. Respondent says after they completed the referenced July 15, 2022, appraisal, they received a text from the listing agent. Complainant states this message alleged Respondent was biased in their report of the home. Respondent refutes the allegations of bias in either referenced report.

Respondent provided both appraisal reports referenced in the complaint for review by an expert. The expert noted in both reports that the material appeared to support the overall opinion of the market value concluded. However, the expert noted similar USPAP violations found in both reports.

The expert found the following violations in the first relevant report reviewed:

Improvements Section:

- This section appears mostly complete and adequate, except in the Describe the Condition section there is a statement that the “Kitchen -not updated and Bathroom updates have an unknown time frame.” An appraiser should obtain these dates from the owner or the listing agent.
- Additionally, in the supplemental addendum there is the following statement:
 - o **URAR : Subject - Overall Condition of the Property:**
 - According to the listing agent, the subject has had the following updates: new roof and flooring. Additionally, one of the bathrooms has been updated.
- Per the report the subject is 61 years old but has an effective age of only 20 years, but there is no information in the report as to why the effect age is so much lower than the actual age.
- This lack of detail information is confusing to a reader of the report.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(a, b), SR1-2(e)(i), SR2-1(a &b), (SR2-2(a)(iv).

Hypothetical Condition:

- The appraisal report was made subject to repairs or alterations on the basis of a Hypothetical condition that the repairs had been completed. While this is a reasonable or proper reason for using a Hypothetical condition, a Hypothetical

- condition must be clearly and conspicuously stated and include a statement that its use might have affected the assignment results.
- It was conspicuously stated as it was on page 2 just above the market value but there was not a statement that its use might have affected the assignment results. Additionally, the repairs were not detailed except for some references in the Supplemental Addendum under Subject – Overall Condition of the Property, page 6.
 - This limited disclosure of the use of a Hypothetical condition and repairs is confusing to readers of the report.
 - In the supplemental addendums, page 8, there was the following statement:
 - o **URAR : Subject - Overall Condition of the Property:**
 - An inspection of the attic revealed some debris; see required repairs list and photo addenda.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(a & c), SR2-1(b & c), (SR2-2(a)(xiii).

Workfile:

- The Record Keeping Rule states the Workfile must contain true copies of all written reports.
- The Workfile submitted by the Respondent contained a copy of only one appraisal report, the same report submitted with the complaint.
- That report had an effective date of 03/23/2022, while the date of the report was 04/7/2022.
- In the Supplemental Addendum there was comment about a report revision and a date of revision listed. This information indicates there may have been different reports submitted but the Workfile only contained one report.
 - o If there were revised reports copies must be in the Workfile.
- In the supplemental addendums there was the following statement:
 - o **URAR : Client Requested Revision/Commentary:**
 - Subject parcel number revised/corrected from 049044 00041 to 049044 00015; see page 1. Original report signed/dated 04/05/2022; first revised report signed/dated 04/07/2022; final revised report signed/dated 04/07/2022.

These observations reflect non-compliance with the following 2020/2022 USPAP Standard: RECORD KEEPING RULE.

The expert states, in conclusion, the report had confusing information in the Improvement Section and lack of detail in that area. Additionally, that Respondent did not adequately disclose the Hypothetical Condition and that copies of other reports were not retained in the Workfile as required.

The expert found the following violations in the second relevant report reviewed:

Improvements Section:

- This section appears mostly complete and adequate. However, per the report the subject is 92 years old but has an effective age of only 20 years, and there is no further information in the report as to why the effect age is so much lower than the actual age.
- This lack of detail information is confusing to a reader of the report.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(a, b), SR1-2(e)(i), SR2-1(a &b), (SR2-2(a)(iv).

Hypothetical Condition:

- The appraisal report was made subject to repairs or alterations on the basis of a Hypothetical condition that the repairs had been completed. While this is a reasonable or proper reason for using a Hypothetical condition, a Hypothetical condition must be clearly and conspicuously stated and include a statement that its use might have affected the assignment results.
- It was conspicuously stated as it was on page 2 just above the market value but there was not a statement that its use might have affected the assignment results.
- This limited disclosure of the use of a Hypothetical condition is confusing to readers of the report.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(a & c), SR2-1(b & c), (SR2-2(a)(xiii).

Workfile:

- The Record Keeping Rule states the Workfile must contain true copies of all written reports.
- The Workfile submitted by the Respondent contained a copy of only one appraisal report, the same report submitted with the complaint.
- That report had an effective date of 07/01/2022, while the date of the report was 07/19/2022.
- In the Supplemental Addendum there was comment about a report revision and a date of revision listed. This information indicates there may have been different reports submitted but the Workfile only contained one report.
 - o If there were revised reports copies must be in the Workfile.
- In the supplemental addendums, page 10, there was the following statement:
 - o **URAR : Client Requested Revision/Commentary:**
 - Marketing time revised/corrected on page 1 from 3-6 months to under 3 months. Original report signed/dated 07/13/2022; revised report signed/dated 07/19/2022

These observations reflect non-compliance with the following 2020/2022 USPAP Standard: RECORD KEEPING RULE.

The expert states, in conclusion, the report had confusing information in the Improvement Section and lack of detail in that area. Additionally, that Respondent did not adequately disclose the Hypothetical Condition and that copies of other reports were not retained in the Workfile as required.

Despite the reviewer finding the reports to be overall supported, the reviewer found the same issues in both reports they reviewed. Due to that, Counsel is recommending authorizing issuing a Consent Order requiring Continuing Education in the relevant areas to be completed within 180 days of the execution of the Consent Order, and for these classes to be in addition to the continuing education minimum requirements for license renewal.

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 voted to authorize issuing a Letter of Warning to Respondent for their violations regarding the Hypothetical Condition.

8. 2022040461
Opened: 11/7/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 1/13/1992
Expires: 1/13/2024
History: 2003 Consent Order for alleged incorrect comparables; 2005 Consent Order for alleged gross negligence.
Complainant is the Real Estate Agent (hereinafter "Agent") for the seller of the property in question in the complaint. Complainant states Respondent came out on September 8, 2022, to perform the appraisal. Complainant states Respondent had a deadline of September 19, 2022, to turn the report in to the Lender. Complainant states, however, Respondent did not turn in the report for the appraisal on the due date. Complainant alleges the Lender continually reached out to Respondent numerous times (on September 19, 20, and 21) but could not contact them until the 21st. Complainant states at that time, Respondent informed the Lender they were having internet problems and would send the report later that day. However, Complainant states the report was still not submitted by the end of that day.

Complainant states, as such, the Lender reached out again on both September 22 and 23, 2022. However, Complainant states the Lender did not receive a response. Accordingly, Complainant says the Lender had a welfare check done on Respondent as they had been unresponsive to all parties. Complainant states Respondent's child answered the door, and they said Respondent was sick and unavailable.

Complainant states that on September 26, 2022, the Lender hired another appraiser to conduct a "rush appraisal," as September 27, 2022, was the set closing date. Complainant states due to Respondent's lack of response, the closing date got pushed to September 30, 2022. Complainant states, as such, the buyer incurred a \$500 extended rate lock fee due. Furthermore, Complainant says since they had to hire another appraiser to conduct a "rush appraisal," they incurred additional fees. Complainant states they believe Respondent acted unprofessionally by failing to respond to the Lender and complete their work. Complainant states they understand if someone is sick and unable to complete a job, however, due to Respondent's lack of communication and honesty, there was unnecessary stress and delay.

Respondent also failed to answer the Commission's request to respond to this complaint. Based on the allegations mentioned above, Respondent's failure to respond, and Respondent's history, Counsel recommends that the Commission authorize issuing a Consent Order assessing a \$500 civil penalty.

Recommendation: Authorizing a Consent Order assessing a \$500 civil penalty.

Commission Decision: The Commission voted to authorize issuing a Letter of Instruction to Respondent regarding Respondent's failure to respond to the Commission.

CASES TO BE REPRESENTED:

9. **2022011551**
Opened: 4/25/2022
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 by communicating a misleading appraisal; 2017 Consent Order for alleged USPAP violations; 2019 Consent Order for USPAP violations

Fannie Mae complaint alleges there were substantial errors that lead to a non-credible result. The complaint alleges inadequate comparable adjustments and the use of dissimilar comparables.

Respondent states they believe the adjustments they used in the report were the most representative of the market. Respondent states they reviewed the market data to determine an opinion of the market. Respondent states additionally, that the adjustments they made in the report were supported. Respondent states they believe their report meets the requirements and request the complaint to be dismissed.

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

Sales Comparison Approach:

- Sale properties likely included furniture, and household equipment for which no adjustment was made.
- This standard would imply consideration/adjustment be completed when comparable properties included furniture and household equipment.
- Likely sales data was available that was more similar to the base characteristics of the subject.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-2(e) (iii); SR1-4 (a & g)

Based on the minimal findings by the expert, they recommended issuing a non-disciplinary letter to Respondent based on the noted USPAP violations. As such, Counsel recommends issuing a Letter of Instruction on the aforementioned USPAP violations.

Recommendation: Letter of Instruction on the aforementioned USPAP violations.

Commission Decision: The Commission voted to defer this matter to the next meeting and send it out for a second review. The Commission voted to instruct the reviewer to specifically discuss any violations.

New Information: The matter was re-reviewed by a second reviewer.

The new expert reviewer found the following violations:

Sales Comparison Approach Section:

- The reference to work file applies to Restricted reports only. In Appraisal reports a summary of the data in the work file is required. At the top of Addendum page 2 it states, "This report was performed as an appraisal report."

- The paired sales provided in the Response should have been in the appraisal. There is no supporting summary of data for any adjustment in the appraisal.
- The appraisal states that site adjustments are based on site value. The value of the subject site is reported in the Cost Approach. The values of the comparables sites are not reported. There is no data summary in the appraisal that supports this conclusion.
- The differences between the site sizes are not minimal as stated in the Response. The site size of comparable 1 is almost twice the size of subject's site. The site of comparable 2 is almost 15 times larger, comparable 3 almost twice the size, comparable 4 is about 54 times larger, and the site of comparable 6 is 69 times larger than subject's site. Only comparable 5 has a site the same size as subjects. These differences are not minimal.
- Comparable 4 has a site size of 36,590 square feet and comparable 6 has a site size of 46,174 square feet. The Response states that "Typical buyers are generally willing to pay more for a vacant lot due to view, option of potential subdivision, large enough for multiple structures." It is not stated in the appraisal as to whether either of these sites is subdividable and whether each are large enough for additional structures.
- There are no paired sales on the Gross Living Area adjustments in the appraisal or in the Appraiser's Response.
- It is not explained in the appraisal as to how comparables 2 (7 years old), 4 (9 years old), and 5 (5 years old) are in C2 condition which is defined as little or no deferred maintenance.
- In the appraisal it states "the difference between a C1 and C2 rating may not support an adjustment at this time due to a lack of inventory." It is not explained in the appraisal how a lack of inventory nullifies the differences in condition. The appraisal has been completed per UAD and the definitions for condition in UAD do not state that a lack of inventory nullifies condition adjustments.
- Only one comparable is similar to subject in Gross Living Area. Subject is 676 square feet, comparable 3 is 888 square feet. This comparable adjusted to \$421,600 and is not reconciled to the value opinion of \$495,000.
- It was not reported in the appraisal that all comparables are located in resort style communities as was reported in the Response. The appraisal reports that the comparables used were reported to be "in similar areas."
- There is no summary of support in the appraisal that the comparables are in locations similar to subject's (in similar areas), this conclusion is not supported.
- The Reconciliation of the Sales Comparison Approach states that most weight was placed on comparables 1 and 2. However, the value opinion is \$495,000, similar to the adjusted price of comparable 1 (\$495,600). The adjusted price of comparable 2 is \$435,100. This comparable is not reconciled to the value opinion of \$495,000 and does not appear to have been given any weight, all weight appears to have been placed on comparable 1 despite the comments in the appraisal.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(b); SR 1-1(c); SR 1-4(a); SR 2-1(a); SR 2-1(b); SR 2-2(a)(5).

Cost Approach Section:

- The Site value is not supported. Four site sales are reported in the Addendum; however, the site sizes of the sales are not reported. There is insufficient information in the appraisal to enable the intended user of the appraisal to understand the valuation of the site.

This observation reflects non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 1-4(b)(i); SR 2-1(b); 2-2(a)(x)(5).

Income Approach Section:

- The Income Approach was developed in the Addendum, however, in the Reconciliation section the Value per the Income Approach is reported to be \$0 (zero). The commentary in the Reconciliation reflects its completion.
- In the Addendum it states, "This approach was not processed in this field as this field requires use of a GRM which is typically applied to a new(er) product." This statement indicates the Income Approach was not developed. However, subject is a "newer) product so this statement is confusing and perhaps contradictory boilerplate.
- The Addendum goes on to say, "The appraiser considered a PGIM multiplied by an average monthly income of similar properties (as furnished)." This appears to contradict the prior statement which seemed to discount the Income Approach.
- The market rent for subject reported in the Addendum is not supported due to the lack analysis:
 - o Rental 1 which is comparable sale 1 rents for \$7,083 per month, \$3.95 per square foot. It is not reported as to whether this rental was furnished.
 - o Rental 2 is comparable sale 2. It rents for \$5,750 per month, \$3.39 per square foot. It is not reported as to whether this rental was furnished.
 - o Rental 3 is comparable sale 4. It rents for \$7,075 per month, \$3.24 per square foot. It is not reported as to whether this rental was furnished.
- The market rent for subject is reported to be \$6,600 per month. This is \$9.76 per square foot and is not supported by the rent per square foot of the comparables. There is no analysis in the appraisal as to how the market rent of subject was determined other than "the appraiser chose the mid-range." It is not reported as to whether the market rental was furnished.
- As a result, the value by the Income Approach, \$495,000, is not supported.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(b); SR 1-4(c)(i); SR 2-1(b);2-2(a)(x)(5).

Reconciliation Section:

- The Reconciliation section indicates that the Income Approach has -0- value. However, the Reconciliation comments report that the "estimated income approach was considered based on rental history of comparable income producing properties, as furnished."
- Although the Reconciliation section reports that the Income Approach value is -0- the Income Approach was completed in the Addendum. The value is \$495,000.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(c); SR 2-1(a).

New Recommendation: Based on the second expert's findings, Counsel recommends authorizing 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 in addition to the continuing education minimum requirements for license renewal. Counsel also recommends that the Commission discuss and decide on the appropriate Continuing Education classes to include in the Consent Order.

New Commission Decision: The Commission voted to authorize issuing a Consent Order assessing a \$5,000.00 civil penalty for Respondent's USPAP violations.

10. 2022008791

Opened: 4/11/2022

License Type: Certified Residential Real Estate Appraiser

First Licensed: 11/13/2002

Expires: 10/31/2023

History: 2012 Letter of Warning, 2013 Consent Order for Allegedly Over Inflating Value Opinion, 2015 Consent Order for Alleged USPAP violations; 2017 Letter of Warning

Complainant is the homeowner. Complainant states they believe Respondent committed serious errors that affected the final result of the appraisal. Complainant states they believe the comparables used were not accurate. Complainant alleges respondent made numerous minor mistakes that in the aggregate made the appraisal noncredible. Complainant states due to a series of errors within the report they decided to file their complaint.

Respondent states their position as a privilege, and that they strive for honesty. Respondent states they would never initially misreport on an appraisal. Respondent

states, rather, they make their decisions based on market research and never intend to include any personal opinions in their reports.

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

Scope of Work Rule:

- Appraisal appears to fail to determine and perform the scope of work necessary to develop a credible result.

USPAP Standard SR 1-1 (a & b):

- The characteristics of the property, i.e., access or lack thereof, are not adequately identified so a logical comparison to sale properties was not provided.
- It appears that there is a significant probability that the property lacks legal access to any surrounding roadway. Valuing the property using sales that have road frontage or access without recognition of this significant difference is a substantial error leading to likely misrepresentation as to value.

USPAP Standard SR 1-2 (e) (i) and (iv):

- A review of the tax map and survey metes and bounds description should have led the appraiser to independently review deeds of surrounding properties for possible easement language or report to the client need for legal and engineering (survey) to establish any existing legal access or lack thereof.

Based on Respondent's history and 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 voted to defer this matter to the next meeting and send it out for a second review. The Commission voted to instruct the reviewer to specifically discuss any violations.

New Information: The matter was re-reviewed by a second reviewer.

The new expert reviewer found the following:

Identification Section:

- The report only lists the subject property's address as the name of the road, although the subject is vacant land the report needs to provide a more detail property address, if a street number was not available then Respondent should have used the county parcel number as its street number.
- Although there was a copy of the subject's county parcel map in the report the subject's parcel number is not listed in the form Land Appraisal Report (LAR). This would be confusing to the reader of the report as the subject was not accurately identified in the report, except by the listing of the Deed Book and page of the property.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(b & c); SR 1-2(e)(i); SR 2-1(a & b); SR 2-2 (b)(vi).

Neighborhood Section:

- This section has very "canned statements."
- This section has very little real information about the neighborhood and area, due to the lack of information some of the information is confusing and/or misleading.
- For example, the neighborhood's marketability is described as "Average...maintenance and upkeep."
- Additionally, the "Change in Present Land Use" likely block was marked but there was not a discussion about the change from "vacant to SFR". This section was considered very inadequate and lacking any meaningful information.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(b & c); SR 1-2(e)(i); SR 2-1(a & b); SR 2-2 (b)(iv, xii, & xiii).

Highest and Best Use Analysis Section:

- The LAR form has a Highest and Best Use (HBU) check box, the box marked Other was checked indicating a HBU different than the Present Use. There were no other comments or a statement in the site section about the HBU.
- On page 22 of the PDF copy of the report, the USPAP Addendum page, under additional comments at the bottom of the form there was a HBU comment which is in direct conflict with the statement in the LAR.
- The HBU box being checked indicates a HBU analysis was necessary for credible assignment results therefore, the appraiser was required to develop an opinion of the HBU of the real estate. The canned statement on page 21 being in conflict

with the report section plus no discussion about the change from its Present Use to "Land Use 11 Forrest."

- This does not meet the USPAP required HBU discussion requirement necessary for credible assignment results. The appraiser was required to develop this discussion.

These observations reflect non-compliance with the following 2020/2022 USPAP Standards: SR 1-1(a, b & c); SR 1-3(a & b); SR 2-1(a & b); SR 2-2 (b)(xiv).

Based on Respondent's history and the USPAP violations found in Respondent's appraisal by the expert reviewer, Counsel recommends a Consent Order requiring Continuing Education 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 that the Commission discuss and decide on the appropriate Continuing Education classes to be included in the Consent Order.

New Recommendation: Based on the second expert's findings, Counsel recommends authorizing 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 in addition to the continuing education minimum requirements for license renewal. Counsel also recommends that the Commission discuss and decide on the appropriate Continuing Education classes to include in the Consent Order.

New Commission Decision: The Commission voted to authorize issuing a Consent Order assessing a \$1,000.00 civil penalty, as well as requiring Fifteen (15) hours in Report Writing CE to be completed within 180 days of the execution of the Consent Order and to be in addition to the Continuing Education minimum requirements for license renewal.

Legislative Update

Staff Attorney Anna Matlock gave a brief update regarding SB0173/HB0247 which as currently written would add real estate appraisers to Classification 3 of the taxable activities in the Business Tax Act ("BTA"), otherwise known as "sales of services or engaging in the business of furnishing or rendering services", which are exceptions to the BTA and not considered taxable activity.

NEW BUSINESS

Brett Mansfield initiated conversation regarding individuals going into homes on the behalf of appraisers and reporting back information to the appraisers. Anna Matlock provided a word of caution for items that could potentially fall outside the commission's jurisdiction.

ADJOURNMENT

Brett Mansfield made a motion to adjourn the meeting. This was seconded by Dr. Pankaj Jain. The motion passed by unanimous voice vote. The meeting adjourned at 11:10 a.m.