



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

December 9th, 2013
Minutes
First Floor Conference Room (1-A)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on December 9th, 2013 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Green called the meeting to order at 10:05 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT

Michael Green
Mark Johnstone
Norman Hall
Nancy Point
Eric Collinsworth
Gary Standifer

COMMISSION MEMBERS ABSENT

Dr. Edward A. Baryla
Timothy Walton
Rosemarie Johnson

STAFF MEMBERS PRESENT

Nikole Avers, Jesse Joseph, Keeling Baird, Dennis O'Brien

Chairman Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on November 19th, 2013.

ADOPT AGENDA

Mr. Hall made the motion to accept the agenda. It was seconded by Ms. Point
The motion carried unopposed.

DIRECTOR'S / ASSISTANT COMMISSIONER'S REPORT

Director Avers introduced Assistant Commissioner Mr. Giannini and Ms. Whaley, who had attended to share the Real Estate Appraiser Commission budget with other financial and administrative initiatives.

Mr. Giannini went over the Appraiser Commission budget for the past few years. He informed the Commissioners that the new software licensing system (CORE) would soon be in place, making it easier to manage appraiser licensing and renewals online. He ended by sharing some detail on the latest Customer Focused Government initiative.

Director Avers shared that at the recent AARO conference she attended in DC, there were many important updates from the ASC and the Appraisal Foundation on USPAP, background checks,

experience training, review appraisals and issues affecting regulatory agencies such as AMC complaint investigation and how different states were able to seek discipline for violating the law.

At that conference, Director Avers was also installed as President-elect, a role she would fill for one year. She mentioned that the 2015 AARO spring conference would be held in Nashville, and hoped all of the Commission members would attend.

In response to the Commission's request in October for additional information on distance education, she reported on the different states that allowed Qualifying Education by distance education or 'online' and noted that several more states had recently started to allow it.

By the Board's request at the last meeting, she made available excerpts of the proposed language from the January 2012 rulemaking hearing on distance education.

Director Avers also read an email she had received from Ed. Browning (CR 2421), dated December 6th, 2013, in which he shared his views on the merits of on-line education.

Discussion: Having read the documents submitted by Dr. Baryla on online vs. classroom/distance education, the Board shared their varied personal views of online education. Mr. Johnstone suggested that the Board entertain a vote to look into approving online education at the next rule making hearing.

Vote: Mr. Johnstone made a motion that the Board move forward during the next rule making hearing to include the language from the prior rule making hearing notice Rule 1255.2.04, pages 20-23, as it pertained to online education. This was seconded by Mr. Collinsworth. The vote carried by majority, with Mr. Hall in opposition.

Mr. Green provided follow-up information on the topic of applicants having to fill in the educational matrix to get individual course approval for Qualifying Education, based on information gained at the AARO conference in DC. He had spoken to representatives of five different states on this matter. All of them said that applicants were expected to fill in the matrix on their own if they had not taken classes that conformed to the new rules for Qualifying Education.

MINUTES

The October 14th, 2013 minutes were reviewed. Mr. Johnstone made the motion to accept the minutes as written. It was seconded by Ms. Point. The motion carried unopposed.

REPORT OF EXPERIENCE INTERVIEWS

Brett B. Mansfield made an application to upgrade from a certified residential real estate appraiser to a certified general real estate appraiser. Since Mr. Green was the reviewer, he handed the meeting over to Mr. Johnstone to conduct the motion and voting process. Mr. Green recommended that the experience credit request be granted. Mr. Standifer made a motion to approve his request. This was seconded by Mr. Hall. The motion carried unopposed.

Jeffrey Todd Sims made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Hall was the reviewer and recommended his experience credit request be approved. Mr. Johnstone made a motion to approve his request. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Richard D. Fowler made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Johnstone was the reviewer and recommended his experience credit request be approved. Mr. Hall made a motion to approve his request. This was seconded by Ms. Point. The motion carried unopposed.

Mark Thomas Haley made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Johnstone was the reviewer and recommended his experience credit request be approved. Mr. Hall made the motion to approve his request. This was seconded by Mr. Standifer. The motion carried unopposed.

Clarence W. Martin made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Mr. Collinsworth was the reviewer and recommended his experience credit request be approved. Mr. Johnstone made the motion to approve his request. This was seconded by Mr. Standifer. The motion carried unopposed.

Steve Carey Gregory made an application to upgrade from a licensed real estate appraiser to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended his experience credit request be approved. Mr. Hall made the motion to approve his request. This was seconded by Mr. Johnstone. The motion carried unopposed.

Stanton E. Allen made an application to upgrade from a registered trainee to a licensed real estate appraiser. Ms. Point was the reviewer and recommended his experience credit request be approved. Mr. Standifer made the motion to approve his request. This was seconded by Mr. Hall. The motion carried unopposed.

Frederick Webber White made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Point was the reviewer and recommended his experience credit request be approved. Mr. Johnstone made the motion to approve his request. This was seconded by Mr. Collinsworth. The motion carried unopposed.

William Joshua Stephens made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Standifer was the reviewer and recommended his experience credit request be approved. Mr. Hall made the motion to approve his request. This was seconded by Ms. Point. The motion carried unopposed.

Jon Christopher Norton made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Standifer was the reviewer and recommended his experience credit request be approved. Mr. Johnstone made the motion to approve his request. This was seconded by Mr. Hall. The motion carried unopposed.

Clarence Joseph Verneuil, Jr. requested that the Board waive his second experience interview towards upgrading his credential from certified residential real estate appraiser to certified general real estate appraiser since he had already met the educational requirements and passed the experience interview at an earlier meeting, but had not been able to take the exam in the past year because of an injury that forced him to concentrate on his physical therapy and rehabilitation.

Vote: Mr. Hall made the motion to approve the waiving of his second experience interview and allow him to move forward in his efforts towards gaining a certified general credential. This was seconded by Ms. Point. The motion carried unopposed.

DECEMBER 2013 - EDUCATION COMMITTEE REPORT

Dr. Baryla reviewed the submissions for course approvals and communicated them to the office electronically. Director Avers read his recommendations into the record, as below:

Course Provider	Course Number	Course Name	Instructors	Hours Requested by Provider	Type	Rec.
Georgia Appraisal School	1695	FHA Valuation Protocol & the Top 50 Mistakes Appraisers Make	John P. Smithmyer	7	CE	for
Georgia Appraisal School	1696	Introduction to Litigation & the Appraiser as Expert Witness	John P. Smithmyer	7	CE	for
NAIFA	1697	Residential Reporting - Hitting All the Bases	Mike Orman	7	CE	for
Appraisal Institute	1700	Unraveling the Mystery of Fannie Mae Appraisal Guidelines	John Underwood	4	CE	for
ASFMRA	1701	Appraisal Review Under USPAP (A370)	K. Daw, T. E. Dobbin, C. Greenwalt, J. Osmundson	22	CE	for
ASFMRA	1703	Succession and Estate Planning * Does not seem to be appraisal topic	Brenda Taylor	8	CE	Against
Melissa Bond	1705	Site Inspection	Melissa Bond	7	CE	for
Melissa Bond	1706	Comps or Sales	Melissa Bond	4	CE	for
McKissock	1707	Reviewer's Checklist	D. A. Bradley, W. Czekalski, K. C. Guilfoyle, C. W. Huntoon, K. T. Martin, R. D. McKissock, L. McMillen, S. W. Vehmeier, S. L. Barkalow, P. Lorenzen, J. P. Smithmyer, A. L. Brown	7	CE	for
Bryan S. Reynolds & Associates	1708	Residential Appraisal Review 105	Bryan S. Reynolds, Clay J. Wells, Ann M Chalos, Kevin Hardin	7	CE	for
Bryan S. Reynolds & Associates	1709	Defensible Appraisal Practices 100	Bryan S. Reynolds, Clay J. Wells, Ann M Chalos, Kevin Hardin	7	CE	for
Dennis Badger	1710	Appraiser Highest & Best Use	Jeffrey Lagrew, John Hoover, Michael Deweese, Dennis Badger	3.5	CE	for
Dennis Badger	1711	Valuation Protocol for FHA Appraisals	Jeffrey Lagrew, John Hoover, Michael Deweese, Dennis Badger	3.5	CE	for
Appraisal Institute (Greater TN)	1712	Commercial Appraisal Engagement & Review for Bankers & Appraisers	Joseph C. Magdziarz	7	CE	for
Appraisal Institute (Greater TN)	1713	Litigation Skills For the Appraiser	W. D. Otto Spence	7	CE	for
Appraisal Institute (Greater TN)	1714	Analyzing the Effects of Environmental Contamination on Real Property	Nick A. Tillema	7	CE	for
Appraisal Institute (Greater TN)	1715	Effective Appraisal Writing	Alan Blankenship	7	CE	for
McKissock	1716	Analyze This! Applications of Appraisal Analysis	Daniel Bradley, Wallace Czekalski, Kenneth Guilfoyle, Charles Huntoon, Tracy Martin, Larry McMillen, Steven Vehmeier, Suzanne Barkalow, Paul Lorenzen, John Smithmyer, Amelia Brown	4	CE	for
McKissock	1717	UAD – Up Close and Personal	Daniel Bradley, Wallace Czekalski, Kenneth Guilfoyle, Charles Huntoon, Tracy Martin, Larry McMillen, Steven	3	CE	for

			Vehmeier, Suzanne Barkalow, Paul Lorenzen, John Smithmyer, Amelia Brown			
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Individual Course Approval Requests

Licensee	Course Provider	Course Name	Hours	Type	Rec.
Nikole Avers (CR 3345)	AARO	AARO Fall 2013 Conference	14	CE	for *see below
Michael Green (CG 1072)	AARO	AARO Fall 2013 Conference	10.75	CE	for ** see below

Instructor Approval Requests

Instructor	Course Provider	Course#	Course Name	Hours	Type	Rec.
Lynne L. Heiden	Dennis Badger	843	National USPAP Update Course	7	CE	for

***Nikole Avers: 6 General Sessions totaling 555 minute; round robin 210 minutes; breakout session 105 minutes and 8 hours of education discussions**

**** Michael Green: 600 minutes total equals 12 hours, no credit for committee meeting**

Mr. Hall made a motion to accept the recommendation.. This was seconded by Mr. Standifer. The motion carried unopposed.

APPLICATIONS REVIEW – Character Questions

Frederick Webber White

On October 21st, 2013 an application to become a certified residential real estate appraiser was received by staff from applicant Frederick Webber White.

The application included marking “yes” to character question 3 on the application, which reads, “Have you ever been convicted of, pled guilty, or pled no contest to any criminal offense, or is there any criminal charge now pending against you?”

His application contained details of five separate charges from 2005 to 2007 that included ‘Possession of beer by a minor’, ‘Unlawful use of an ID Card’, ‘Driving under the influence’ and ‘Possession of an open container’.

While processing his application staff noticed Mr. White had not revealed this information on his earlier trainee application of June 2011, which contains a similar character declaration page. Mr. White has explained this discrepancy in a letter to the Commission.

- He misinterpreted the character history question earlier, since his offenses were misdemeanors and not serious felony offenses
- He did not remember how he answered the character questions on his trainee application when making the more recent application for certified residential real estate appraiser
- He indicated that due to the gravity of becoming certified, he took the questions more seriously, so answered “yes” and was completely forthcoming with any past history that could be considered ‘criminal’
- He is since working with the Starkville Municipal Court to have his earlier convictions as a minor, expunged from his record

Vote: Mr. Hall made the motion to approve his application. This was seconded by Ms. Point. The motion carried unopposed.

LEGAL REPORT

1. 2012021251

This complaint was filed by a consumer and alleged that Respondent under-valued a historic farm property. The complaint also alleged a conflict of interest on the part of Respondent in the proposed sale of the property.

Respondent sent a response to the complaint, denying any conflict of interest in the matter. Respondent stated that much of the home is intact/original and in relatively good condition for its age, however, considering its size and the amount of work required to make it habitable and marketable, it was given no value in this report. For example, the home has only a few (less than 20) electric fixtures and outlets and would need to be rewired. There is only one very dated full bathroom in the entire home, which is situated on the first floor. The kitchen is very dated and has very old appliances, cabinets, and counters, etc. After considering all repair/update items and looking at sales of similar homes in the region 50 plus years old and larger than 3,000 square feet, the dwelling was thought to offer some intrinsic/historic value, however, in its current state of neglect and disrepair, the dwelling was thought to offer little contributory value.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- **Contract:** The report failed to include a summary of the analysis of the current agreement of sale. There was a pending purchase price noted of \$750,000, but no contract information was provided. [SR 1-5(a)]
- **Listing/Sales History:** The recent expired listing of the subject property did not include a summary of the analysis in the appraisal report. The listing price was significantly higher than the reported contract. [SR 1-5(a); SR 2-2(b)(ix)]

Respondent's Response to Reviewer's Conclusions:

Respondent sent a response to the reviewer's conclusions stating that in regard to the contract issue, unfortunately, at the time of this assignment, there was no written purchase contract which was known and explained to him by his client. To complicate matters further, the subject property was owned by several individuals, not all of whom were cooperative at the time of inspection. In the course of Respondent's appraisal assignment, the purchase price was verified with the property owner's representative (seller) and the borrower (buyer) and discussed in the reconciliation of the report. With regard to the second issue (listing/sales history), Respondent stated, as was disclosed within the report, the subject had been offered for sale by owner for some time. The property owner's representative did not disclose a specific listing price because of the various parties involved. While there were several formal expired listings dating back beyond 2010, none were considered relevant in this situation given the length of time that had lapsed and its lack of relevance and impact on my current opinion of market value. Respondent wanted to reiterate that a summary of the agreement of sale was provided in his appraisal report in compliance with Standards Rule 2-2(b)(viii) as required by USPAP, and while a summary of an analysis of the expired listing was not provided, it is not a direct requirement to do so. The expired listings occurred nearly three years prior to Respondent's effective date of the appraisal and had no impact on his opinion of value. Respondent suggests that his report complied with the minimum development and reporting requirements of USPAP and his intended user.

License History:	Registered Trainee	1/28/2003-10/17/2007
	Certified Residential	10/18/2007-12/6/2010
	Certified General	12/7/2010-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found that the data included in the appraisal from Respondent appeared accurate and relevant for the appraisal performed. The methods and techniques employed by Respondent appear to have been well documented and well supported with adjustments reflecting acreage breakdowns consistent with available data. Overall, the reviewer found the appraisal report to be credible. Respondent has been licensed for about ten (10) years with no prior discipline. As such, Counsel recommends **Closure of the matter with no further action.**

Vote: Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Johnstone. The motion carried unopposed.

2. 2013011111

This complaint was filed by the selling agent for the subject property and alleged that it was the most unprofessional appraisal she had ever read. The sale was a conventional as-is sale, and Complainant alleged Respondent was requesting that many items be corrected on the property that wouldn't have been requested on an FHA or VA appraisal. Complainant alleged that Respondent made note of multiple cosmetic items for correction that should not have been on an appraisal. Complainant also stated that Respondent made note of items such as mold that he determined were in need of repair, and he gave dollar figures for these items even though he is not a mold inspector. Complainant stated that Respondent will not return her phone calls.

Respondent filed a response to the complaint stating that he has been an appraiser for twenty-three (23) years, and this is the first complaint he has had. Respondent stated that his client is the lender, not the selling agent. Respondent stated that at the time of the inspection, he noticed a strong odor of mold. Respondent noted that the property was vacant at the time of the inspection, but Respondent did not know how long it had been vacant. Respondent stated this appraisal was made "subject to" since there was an unknown with the roof and mold. The roof had shingles that had been lifted up, and there was evidence of a leak around the fireplace. There was no visible mold but because the house smelled of mold, Respondent noted it in the report.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment. The appraisal is made subject to certain repairs. Among the stated repairs is the possible existence of mold; however, the appraiser did not see any visual evidence of mold. The appraiser's conclusion is based on his sense of smell, alone, with no further evidence. The appraiser proceeds, however, to provide an estimated cost to repair the mold of \$10,000. Since the appraiser does not know if mold exists or not, the mold issue should have been identified as an extraordinary assumption. [SR 1-2(f); SR 2-2(b)(x); Competency Rule (lines 323-324, 328-329, 355-364); SR 2-1(b)]
- An opinion of site value is provided in the cost approach. Three vacant land sales are provided in support of the site value; these sales range in price from \$30,000-\$53,400. These sales are used to support a site value opinion of \$35,000; however, no comments of reconciliation are provided to show how the final value conclusion was determined. [SR 1-6; SR 2-2(b)(viii)(lines 789-791)]
- The appraiser has made a condition adjustment to 5 of the 6 comparable sales used in the report, however, no specific comments are provided in the report as to how the sales differ from the subject so as to give a credible explanation for making each adjustment

and to support each amount. In addition, the appraiser has indicated several items of deferred maintenance with regard to the subject, but since the appraised value is subject to repairs, the subject's condition in the sales comparison approach should be based on the hypothetical condition that the repairs have already been made. [SR 1-1(b)&(c); SR 2-1(b)]

- An insufficient reconciliation is found in the sales comparison approach to value. The only statement of reconciliation made in the analysis is, "More emphasis was placed on sales 1-3 in the final reconciliation of value." There is no additional clarification as to why these sales are given more emphasis or how these sales are used to arrive at a final value of \$147,000. [SR 1-6; SR 2-2(b)(viii)(lines 789-791)]
- There is insufficient data provided to support the neighborhood conclusions found on page 1 of the report. [SR 1-3(a)(lines 554-555)]
- There is no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3(lines 877-879)]

Respondent's Response to Reviewer's Conclusions

Respondent sent a response to the reviewer's conclusions stating that anything that may have been omitted from his report, according to the reviewer, was strictly an oversight and unintentional. Respondent stated that bullet number six stated that he did not include whether he had performed any work on this property in the past three years. This item is clearly on the addenda pages under "Sales Comparison Analysis," and it is the first line. Respondent sent documentation to prove this along with his response letter. With regard to bullet number one, regarding the failure to summarize the information to identify the real estate involved, Respondent stated it is not clear what the reviewer is asking, as the real estate is clearly defined in the appraisal. There is an address, legal description, and a map and parcel which identifies the subject property. Next, there is a statement that Respondent could not know if mold exists since he was relying on his sense of smell. Respondent stated that at least twenty percent of the properties he has appraised since 2009 have had a mold issue and many were not visible. So, Respondent stated he clearly knows that you can detect mold from smell. There were signs of a water leak around the fireplace, and since many roof shingles had been lifted water can easily enter the house from these or the fireplace flashing, which allows the mold to grow in the attic and spread to the walls, and it will not be visible. Respondent said the smell made him sick immediately upon entering the house. Regarding the site value within the cost approach, Respondent included three sales in order to bracket the sales and show that there are some smaller and some larger in the area. The condition adjustments that were made to the sales were due to the fact that they are all in better condition than the subject property. The subject was rated a C4, which is the lowest rating showing deferred maintenance that is still acceptable. Sales one and three were rated C2, which has been renovated and in very good condition. Sale two was rated C3 and is a better condition than the subject but not as good as a renovated property. Condition adjustments were made for all sales. As far as insufficient reconciliation, Respondent stated it is common appraisal practice now to include more than three sales and also to include listings with list to sale ratio adjustments to the listings to show adjusted prices comparable to a sale. Respondent stated he did include the most relevant sales in the area in the positions one through three and since no one particular sale was better at indicating a value. Respondent included all three in the reconciliation, and does not see how this is incorrect. With regard to neighborhood data, Respondent state he included all the neighborhood data which shows the boundaries and characteristics of the area including the value ranges, ages, land uses, and marketing trends.

License History:

Certified Residential

11/15/1991-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found that the quality of the Respondent's work is deficient in its compliance with USPAP, and the credibility of the assignment results is impaired due to the type and extent of non-compliance as specified above. The Respondent has been a certified residential appraiser for almost twenty-three (23) years with no prior discipline. As such, Counsel recommends **Closure of the matter with a Letter of Warning** regarding the reviewer's conclusions noted above.

Vote: Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Ms. Point. The motion carried unopposed.

3. 2013000831

This complaint was filed by a consumer/potential homeowner and alleged that Respondent over-valued a residential property by misreporting the gross living area. The complaint also alleged that Respondent did not report a mold issue in his appraisal report as a health and safety risk.

Respondent sent a response to the complaint stating that the Complainant was not his client in the appraisal matter. With regard to the mold allegation, Respondent stated that the stains noted on the concrete block of the garage are common place in the market and are not mold. The concrete block wall of the detached garage showed mineral stains from moisture seepage. This was noted upon the original inspection but is not considered to present any adverse impact on the subject's overall marketability as originally appraised. Respondent stated it does not present a health or safety risk, as alleged by Complainant. Respondent also stated that according to USPAP, porches cannot be included in computation of gross living area. The subject's gross living area was measured as of the effective date of the report and is correct as documented in the appraisal. The building sketch clearly differentiates the square footages of the covered porch, deck, attached garage, and detached garage, as separate from the subject's gross living area. The Complainant's claim that the porches were included in the gross living area is plainly wrong. Respondent states that based on all the documented evidence, the complaint submitted by Complainant is baseless.

The Respondent was also given the opportunity to respond to the reviewer's conclusions; however, no response was received by this office.

REVEIWER CONCLUSIONS:

- The neighborhood characteristics have not been accurately described. Assuming that the neighborhood statistics would be for the subject city, there were 62 sales in the year prior to the effective date ranging between \$20,000 and \$650,000, with an average sales price of \$189,184. Respondent reported the average as \$110,000. [SR 2-2(b)(iii)]
- The description of improvements is inaccurate. Condition rating of C3 for subject does not consider missing light fixtures, appliances, etc. The range oven and dishwasher noted were not present. All comparable sales also were rated C3 with no adjustments. [SR 2-2(b)(iii)]
- The effective age was not consistent with the physical deterioration and functional obsolescence estimates. An effective age of 4 is too low considering the missing fixtures and dirty carpeting. [SR 2-2(b)(iii)]
- The complaint stated that the garage door was missing from the detached garage. This was not stated in the appraisal, and there was no mention of area above detached garage. [SR 2-2(b)(iii)]

- External obsolescence, physical deterioration, and functional obsolescence has not been explained. Some physical deficiencies were noted but others exist that were not noted, such as dirty or stained carpeting, missing appliances, and missing garage door. [SR 2-1(a)(b)]
- No land sales were provided to substantiate land value in the cost approach. [SR 1-4(b)(i); SR 2-2(b)(viii)]
- \$10 per square foot for 1181 square feet of garage space is too low. [SR 1-4(b)(ii)]
- The effective age of 4 is too low with the needed updates/replacements. [SR 1-4(b)(ii)]
- A functional adjustment should have been added for the missing items. [SR 1-4(b)(iii)]
- In the comparable sales adjustment, the needed updates/replacements are not included in the grid, although Respondent states he considered that by going to the low end of the range. No condition or quality adjustments were made for any sale. [SR 1-4(a)]
- The range of the square foot cost for each sale is between \$86 and \$113 per square foot, yet the adjustments for size difference were made at \$25 per square foot and the unfinished basement adjustment was less than \$5 per square foot. These are lower than typical for this market considering the range of the six comparable sales. At least two of the sales required size adjustments of over 400 square feet each. [SR 1-4(a)]
- No condition adjustments were made, and all were rated equal as being C3. No financing adjustments were made, and no concessions were stated. [SR 1-4(a)]

Licensing History:	Registered Trainee	9/2/1998-9/19/2002
	Licensed RE Appraiser	9/20/2002-9/10/2008
	Certified Residential	9/11/2008-Present

Disciplinary History: 200707096-Closed with Consent Order with \$2,500 civil penalty; 2008026518-Closed with Letter of Instruction; 201002118-Closed Final Order 2/27/2012, imposing 18 month probation, 30 hours of education, and \$2,935 in costs

Reasoning and Recommendation: Respondent’s license is inactive, currently, due to illness. He has already been disciplined, and the appraisal was done on December 31, 2012. It appears that Respondent did not benefit from the probationary period listed above. As Respondent has already had a significant disciplinary history, but his license is currently inactive, Counsel recommends the authorization of a thirty (30) day suspension to take effect immediately upon the execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Discussion and Vote: The Board felt more clarity could be brought to the case, by having another reviewer look at it. Mr. Standifer made a motion to get a second reviewer to look at the complaint. This was seconded by Ms. Point. The motion carried unopposed.

4. 2013010911

This complaint was filed by a homeowner and alleged that Respondent under-valued a residential property by using inaccurate statements and comparable sales choices in the subject appraisal report. Complainant alleged that Respondent used a comparable sale that was listed as “dilapidated” by the County Assessor’s office and was an “as is” sale in the MLS listing. Respondent never addressed the dilapidated property. The Complainant also alleged that Respondent used a comparable sale in a different zip code than the subject property.

Respondent filed a response to the complaint stating that as far as the homeowner saying that he used a “dilapidated” sale, he has not found on any tax cards as to verify what she is referring to on this status. Respondent stated he did use an MLS sale that says “as-is”, as agents tend to use this statement when the homeowner is saying they will not make any repairs. It does not mean that the house is in dilapidated status. As far as the comment on the sale used in a different zip code, Respondent stated that while the subject is located in another zip code, not all areas in this zip code are equal. The subject street is not a premium location in its zip code, evidenced by the subject’s own history. While some comparable sales were utilized in a different zip code than the subject zip code, their locations have shown to be similar. Respondent claimed that the best comparable were used in this report.

REVEIWER CONCLUSIONS:

- **Site Value:** An opinion of site value is provided in the cost approach. The following statement is provided in the report in support of the site value opinion: “The site value is based on an analysis of recent land sales and site-to-total value ratios.” No land sales are provided in the report to support the value conclusion, and there are no land sales or additional allocation data in the workfile to support a site value opinion. There is no summary of support and no reconciliation of land sales to support any site value at all. Since an opinion of site value is, by definition, an appraisal, all applicable standards rules in Standard 1 and 2 are required of the appraiser. [SR 2-2(b)(viii); SR 1-4(lines 560-561); SR 1-6(a); SR 2-1(b); Record Keeping Rule(lines 299-301)]
- **Market Analysis Inconsistencies:** Several market analysis trend conclusions are developed on the first page of the appraisal report. Among them are: increasing property values, supply and demand in balance, and marketing time under 3 months. No support for these conclusions is provided in the appraisal report or in the workfile. A partially completed 1004MC form is included in the report stating that “listing data for time periods prior to current to 3 months are not available in the local MLS system.” This is an incorrect statement since the information can be extracted from previous withdrawn or expired listings and software programs are available to extract this information. The trend conclusions in the report are not properly supported or adequately explained. [SR 2-2(b)(viii); SR 1-4(lines 560-561); SR 1-6(a); SR 2-1(b); Record Keeping Rule(lines 299-301); SR 1-3(a)(lines 554-555)]
- **Sales Comparison Inconsistencies:** The neighborhood analysis on page 1 of the report indicates that property values are increasing, yet no adjustment is made in the sales comparison approach for market conditions (time adjustment). An adjustment may not be called for, but an explanation should be provided so that all intended users can understand the rationale for the lack of adjustment.
Sales 1 & 3, and listings 1 & 2 are located over 1 mile away from the subject and, except for sale 1, are all located in a different zip code. The reviewer found 12 sales within the previous 12 months of the effective date of the appraisal, similar to the subject and located within a few blocks of the subject in the subject’s own immediate neighborhood. [SR 1-4(a); SR 2-2(b)(viii)]
- **Highest and Best Use:** The appraisal report states that the highest and best use is the current use of the property, but there is no summary of the support and rationale for this opinion. In addition, an opinion of site value is provided in the cost approach of the report, but there is no opinion given for the highest and best use of the site as-vacant. [SR 1-3(b); SR 2-2(b)(ix)]
- There is no signed statement that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3(lines 877-879)]

Respondent's Response to Reviewer's Conclusions

The Respondent did file a response to the reviewer's conclusions with this office. In response to the site value conclusion, Respondent stated that six comparable sales were actually provided as part of his work file, in support of his opinion of site value, and the reviewer should have found these through the course of the review. As for market analysis, Respondent stated that support for increasing property values have been summarized in the table found on the 1004 MC Form. Sales prices and conclusions in this table are consistent with the conclusion of the URAR. Two comparable sales used within the report occurred within three months of the effective date and one sale within four months of the effective date of the report, and all sales were considered current and no adjustments for market conditions were deemed necessary. With regard to sales comparison inconsistencies, Respondent stated that while prices in the subject neighborhood have increased within the last 12 months, all sales used were under contract within one to four months of the effective date of the report and were considered current. As a result, no adjustments for market conditions were deemed necessary. Respondent stated that the URAR discusses the highest and best use of the subject property and is believed to meet Fannie Mae requirements. Respondent stated he was unaware this did not meet USPAP minimum requirements. Respondent claimed that a statement regarding prior services on the subject property was clearly stated in the URAR. The complete appraisal report includes a legal signature which covers the entire report. It is Respondent's understanding that the report signature is sufficient for the entire report.

Licensing History: Certified Residential 10/21/2005-Present

Disciplinary History: 200602835-Closed with no further action
200901326-Closed with Letter of Caution

Reasoning and Recommendation: The reviewer found that the quality of Respondent's work is deficient in its compliance with USPAP as summarized above. Respondent has been a certified residential appraiser for over eight (8) years and has had a Letter of Caution in the past. As such, Counsel recommends the authorization of a fifteen (15) hour USPAP course to be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Hall made a motion to close the case by sending a letter of caution. This was seconded by Mr. Johnstone. The motion carried unopposed.

5. 2013011451

This complaint was filed by a consumer that is in federal prison for bank fraud that has alleged the Respondent communicated an oral appraisal to a bank in a federally related transaction, which requires a written appraisal, and overvalued three commercial properties which included two carwashes and a strip mall. The Respondent indicated that he completed an appraisal of these commercial properties in early 2006. He indicated he was engaged by the buyer and then referred to the lender for the financial data on the property. He indicated that he tried several times to get the data from the bank. He indicated he did not tell them prior to closing any value because they had not provided financial data. He indicated a few days after closing he received the rental schedules and summaries for the shopping center and he submitted a combined value for the 3 properties of \$1,720,000.00. He indicated the buyer defaulted on the mortgage and the property sold at public auction for \$1,500,000.00. He indicated few days later that the loan officer asked him to do a business valuation of the properties. He said he did not have much confidence in the reported income statements but he submitted an appraisal but stated several times in the report "if any information I used in proved incorrect I reserved the right to revise the report." He indicated several months later he was contacted by the FBI and they asked him to

bring his files with him. He said he gave them a statement indicating he did not provide a verbal appraisal of \$4,000,000.00 and other than the business analysis done after the loan was closed he hasn't done any further appraisal work on these properties. He indicated he no longer has the appraisals or workfiles because the FBI took them. On June 18, 2013, Nikole Avers, Executive Director, provided the Respondent a copy of the appraisal which was submitted with the complaint. The copy provided to the Respondent was marked "Copy" at the top of the appraisal report. The Respondent indicated that he received a letter from the Complainant also. Ms. Avers requested a copy of that letter. He stated in conclusion he believes his value option was "reasonably accurate".

REVEIWER CONCLUSIONS:

- Reporting Option: The reporting option was not properly identified. Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report. [SR 2-2(lines 732-750)]
- Problem Identification/Scope of the Assignment: Insufficient information provided addressing the level of work used to develop the appraisal. The interest to be valued has not been identified in the report. The only statement in the report was, "The scope of services pertaining to this analysis is included in the addenda of this report." There was no addendum provided with the report. [SR 1-2(e)(ii); SR 1-2(f); SR 2-2(a)(b)(c)(vii)]
- Identification of the Subject Property: The report has not provided adequate descriptions or identifications of the subject properties. [SR 1-2(e)(i)(ii)(iii); SR 2-2(a)(b)(c)(iii)]
- Contract-Listing-Sales History: The subject sales contract and subsequent transfer was not discussed and/or analyzed in the report. The sales history of the subject properties was not discussed in the report. Based on the CRS reports, the properties do not appear to have transferred within three years prior to the effective date of the report, which is March 2006. [SR 1-5(a)]
- Type and Definition of Value: The subject appraisal report includes values for the tangible and intangible assets. The subject report does not provide what type of value is being sought and the definition of that value, nor its source. The report should either state the type and definition of value and cite the source of the definition or state the type of value, and cite the source of its definition. [SR 1-2(c); SR 2-2(a)(b)(c)(v)(lines 779-781, 881-883, 974)]
- Neighborhood: Neighborhood market area and trends were not defined, discussed, or analyzed. Neighborhood or market area boundaries have not been defined in a reasonable or adequate manner. [SR 1-1(a)(b)(c); SR 1-2(e)(i); SR 1-3(a); SR 2-1(b); SR 2-2(a)(b)(c)(iii)]
- Site: The sites of the subject properties have not been adequately described or defined. No discussion of zoning, any type of restrictions or easements or other items of a similar nature that may or could have an effect on the subject properties have not been adequately discussed or reported. A highest and best use analysis has not been provided on any of the properties. [SR 1-2(e)(i)(iv); SR 1-3(a); SR 2-1(b); SR 2-2(a)(b)(c)(iii)]
- Description of Site Improvements: Relevant characteristics, conditions, depreciation, or other factors that affect the improvements have not been reported, discussed, or analyzed. [SR 1-2(e)(i)(iii); SR 2-1(a)(b); SR 2-2(a)(b)(c)(iii)]
- Sales Comparison Approach: The sales comparison approach to value was not completed and no explanations or comments were provided. The lack of analysis and the lack of discussion as to the scope of the assignment does not allow the reader to properly understand the procedures followed or opinions and conclusions offered. The exclusion of the sales comparison approach was not supported. [SR 1-2(f); SR 2-2(a)(b)(c)(xi)]

- **Cost Approach to Value:** The cost approach to value was not completed and no explanations or comments were provided. The exclusion of the cost approach was not supported. [SR 1-2(f); SR 2-2(a)(b)(c)(xi)]
- **Income Approach:** Sufficient information or analysis was not provided to properly understand the income approach to value. The report has not adequately provided or reported any supporting rental data, has not provided reasonable support for the income and expenses utilized, and has not provided reasonable support for the capitalization rate used. [SR 1-1(a)(b)(c); SR 1-4(c)(i)(ii)(iii); SR 2-1(b); SR 2-2(a)(b)(c)(ix)]
- **Reconciliation:** There was no final reconciliation in the report. The quality and quantity of data available and analyzed was not adequately reconciled. Applicability and suitability of the approaches used to arrive at the value conclusions had not been adequately reconciled. [SR 1-6(a)(b); SR 2-2(a)(b)(c)(ix)]
- **Certifications:** The report did not have a signed certification page. [SR 2-2(a)(b)(c)(xii); SR 2-3]

Respondent's Response to Reviewer's Conclusions

Respondent sent a response to the reviewer's conclusions stating that he rejects all of the allegations that were made against him and the violations noted by the reviewer.

Licensing History: General RE Appraiser 12/31/1991-Present

Disciplinary History: 937743-Closed with a \$250 civil penalty; 941873-Closed; 942975-Closed; 945164-Closed; 201200129-Pending formal hearing January 13, 2014

Reasoning and Recommendation: The reviewer found that the appraisal report did not contain sufficient information or analysis to enable the client and/or intended users to properly understand the opinions and conclusions provided in the report. Respondent has been disciplined in the past and is awaiting a formal hearing on a pending matter. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order and a six (6) month suspension of his real estate appraiser certification to take effect immediately upon execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Johnstone made a motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The motion carried unopposed.

6. 2013016611

This complaint was filed by an appraiser and alleged that he received an appraisal order from Respondent, an unregistered Appraisal Management Company.

Respondent sent a response to the complaint stating that it is a federal contractor, acting on behalf of two agencies... the FDIC and the United States Marshals Service. It only does contracting on these two agencies' behalf, no other private banks, lenders, etc. Respondent stated that it has been their understanding that as these are federal contracts, and the federal government is requesting that Respondent order valuations on their behalf, Respondent is within a jurisdictional exception within the State. Respondent also stated that it had been asked about this same circumstance about a year ago by the state of North Carolina, and it was reconciled that Respondent was not an AMC. Respondent stated its engagement documentation clearly provides who the order is for, that being either the FDIC or United States Marshals. Respondent stated

that should it ever move into the private sector (banks, lenders, etc.), it will certainly take all steps required in standard AMC licensing.

Licensing History: No licensing history

Disciplinary History: None

Reasoning and Recommendation: T.C.A. 62-39-404(1), states in pertinent part that “This part shall not apply to a national or state bank, federal, or state savings institution that is subject to direct regulation or supervision by an agency of the United States government, or by the department of financial institutions, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution.” However, Respondent is not a bank, savings institution, etc., and there has been no proof provided by Respondent that it is directly regulated by an agency of the U.S. or the department of financial institutions. Respondent seems to be providing valuation services. Thus, they do not seem to fall under our exemption statute. However, the file/complaint did not contain valid “proof” that Respondent was providing AMC services. As such, Counsel recommends **Closure of the matter with a Letter of Instruction** regarding requirements of an entity providing AMC services, as well as an explanation of the exemption statute.

Vote: Mr. Collinsworth made a motion to accept counsel’s recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

7. 2013008021

This complaint was filed by an individual who requested an appraisal at her father’s home because it was in a reverse mortgage, and she was trying to initiate a short sale so that she could purchase the home and live in it. The complaint alleged that Respondent over-valued the subject residential property.

Respondent sent a response to the complaint stating the he did complete an appraisal of the subject property for the Complainant. Respondent indicated that the Complainant requested a liquidation value for the property, and Respondent explained that in order to determine this value, it would be necessary to also establish an opinion of the “as is” market value. Respondent stated that Complainant agreed with the scope of work, and Respondent proceeded with the assignment. Respondent inspected the property and found the overall condition to be fair to poor with extensive deferred maintenance, due to structural issues in addition to defective floor covering, walls, windows, etc. Respondent then learned that the subject property was listed for sale with a contract out for its purchase. Respondent stated he also found out that the purchase offer indicated that the existing improvements would be removed, and a new single family dwelling would be constructed. In the course of Respondent’s market research, he confirmed that the subject site value was greater than the value of the property as currently improved. As a result, the “highest and best use” was to remove the existing improvements for construction of a new single family dwelling. Respondent’s opinion of value reflected what a potential buyer would pay to rehab the existing improvements for their personal use. This is not the “highest and best use” of the subject property. Respondent stated the report also includes an opinion of the liquidation value, which is the site value. Respondent stated the cost approach was not applicable due to the age and condition of the improvements.

REVEIWER CONCLUSIONS:

- The appraisal mentioned the intended user as “lender/client” which gives a misleading statement regarding who the report was for and the purpose of the appraisal.
- Neighborhood: The appraisal does not offer or provide any analysis or support for the statements of Market Condition as shown in the one-unit housing trends. [SR 1-3(a)(b); SR 1-6(a)(b); SR 2-2(b)(vii)(ix)]
- Site: There is no analysis of highest and best use, discussing the four tests defined as: What is legally permissible under the current zoning regulations; What is physically possible on the site; What is financially feasible; and What is maximally productive. The appraisal does not provide the three land sales that are mentioned in the “Comments of the Sales Comparison Approach,” but with only a limited discussion. The land sales are the basis of the “as vacant” value and resulting opinion of market value. The appraisal does not provide any market support for the determination of the highest and best use “as vacant,” and the four tests of highest and best use are not analyzed or discussed supporting the opinion. With two values provided, the results are confusing to the client who did not understand the value conclusion or how the value conclusion was derived. The appraisal lacked additional scope of work, which was employed in the determination of the opinion of value for the subject “as vacant”. [SR 1-3(a)(b); SR 1-4(a); SR 1-6(a)(b); SR 2-2(b)(vii)(viii)(ix)]
- Description of Improvements: The appraisal shows a few errors in the “Exterior Description”: the home had gutters, there was a fireplace, and there was a covered front porch. [SR 1-1(c)]
- Sales Comparison Approach: The appraisal shows adjustments on sales 1 and 3 for lot/size differences but offers no explanation or reasoning for the adjustment. Sale 1 was adjusted for quality of construction differences but calls it “comparable” to the subject and offers no explanation or reason for the adjustment. [SR 1-1(b)(c); SR 1-6(a)]
- Cost Approach: There was no analysis or support for the opinion of site value, which is the basis of the opinion of value. [SR 1-4(a); SR 1-6(a)]

Respondent’s Response to Reviewer’s Conclusions

Respondent sent a response to the reviewer’s conclusions, responding to each of the six bullet points listed above. Regarding the first bullet point, Respondent stated that when he was contacted by Complainant, she indicated that she was the executrix of her father’s estate and needed an appraisal to determine an “as is” value for the subject property. Based on Respondent’s conversations with Complainant, he assumed her father’s estate was his client. Respondent stated that there was no intent to be misleading. With regard to the neighborhood, Respondent stated his conclusion regarding the “one unit housing trend” was based on an analysis of single family sales between 900 square feet and 1800 square feet, within the time period of 3-25-2012 to 9-25-2012 and 9-26-2013 to 3-25-2013. In Respondent’s opinion, both demand and price levels were basically stable over the last 12 months. Respondent stated he mistakenly did not retain this data in his workfile, and it was not available to the reviewer. With regard to issue number three, Respondent’s analysis of “highest and best use” is included in the additional comments. While he did not specifically state that he considered all physical, legal, and financial uses of the subject site, he believed his comments should clearly indicate this was part of his analysis. The subject zoning is RS5, which allows only single family dwellings. With regard to description of improvements, Respondent stated that he mistakenly omitted the fireplace and gutters from the report. There is a front stoop but this is not a covered porch as indicated by the reviewer. While Respondent admits this was an error, he would like to point out that the omission did not have an effect on either opinion or value. With regard to the sales comparison approach, Respondent stated that each sale appeared to have superior floor covering, appliances, windows, etc. and superior overall condition. Respondent admitted that he did not adequately explain the basis for these adjustments in the report. Respondent stated he became

too focused on the site value and “highest and best use” analysis and failed to include the support for these adjustments. With regard to the last bullet point, cost approach, Respondent stated the estimated site value was based on his analysis of the land sales described in the sales comparison comments. Respondent stated he should have included these sales and their analyses, in the additional comments. While these comments are misplaced in the report, Respondent believes there is adequate support for the estimated site value which supports the opinion of market value. Respondent stated that over his 30 year appraisal career, he has endeavored to provide both ethical and accurate appraisal services and is a designated member in good standing of a professional appraisal organization. He stated he sincerely regrets any miscommunication with the Complainant regarding the scope of work. Respondent refunded his fee for the appraisal to Complainant and wants to assure the Commission that he will utilize this experience to improve his appraisal reports.

Licensing History: Certified General 12/12/1991-Present

Disciplinary History: 200207302-Dismissed

Reasoning and Recommendation: The reviewer found that the appraisal lacked the analysis of highest and best use and provided no detail, explanation, or support of four test of highest and best use of the subject “as vacant” and “as improved”. The methodology used in addressing the value by adjusting only the sales of existing homes and not analyzing relevant characteristics or adjusting the vacant land sales is in violation of USPAP. Respondent has been a certified general appraiser for almost twelve (12) years with no prior disciplinary action against him. As such, Counsel recommends **Closure of the matter with a Letter of Warning** regarding the violations addressed by the reviewer.

Vote: Mr. Hall made a motion to accept counsel’s recommendation. This was seconded by Mr. Johnstone. The motion carried unopposed.

8. 2013011471

This complaint was filed by a homeowner and alleged that Respondent was slow in acting on the order to do an appraisal of the subject property, so that Complainant had to change the closing date. The Complainant also alleged that the appraisal was low, and the comparable sales were “awful”. Complainant alleged he suffered a significant financial loss, due to the inaccuracies in Respondent’s appraisal.

Respondent filed a response to the complaint stating that he was asked to perform a VA appraisal on the subject property. Respondent stated that he had had an unexpected death in the family and was behind schedule because of this, and admitted that it did take him longer to get to the appraisal, but that he did it as soon as he could. Respondent also stated that he measured the house, and it had 1720 square feet on the main floor and a 1400 square foot basement with 650 square feet of finished area. In the appraisal process, Respondent separated these out and listed it on the appraisal. The MLS listing has the same measurements. Respondent stated he counted the screen/sun porch area in the living area because it was heated. The finished rooms are split out in above ground and below ground rooms and Respondent stated he did adjust all the comparable sales for inferior site.

Respondent was also given an opportunity to respond to the reviewer’s conclusions, but no response was received by this office.

REVEIWER CONCLUSIONS:

- The appraiser did not adequately disclose the scope of work in the report. The property was not properly identified with a correct plat. The type and extent of data researched was not identified and the type and extent of analyses applied to arrive at opinions or conclusions was not provided. [Scope of Work Rule]
- The appraiser did not identify the fifteen (15) acres being appraised in sufficient detail and did not describe this property including physical, legal, and economic attributes. The tax information for 073 042 shows that the property includes 26 acres. A plat showing the correct acreage to be transferred totaling 15 acres should have been required by the appraiser before the appraisal was completed. [SR 1-2]
- The appraiser did not develop an opinion of the highest and best use of the real estate, beyond checking a box on the form. [SR 1-3]
- The appraiser did not analyze the comparable sales data to indicate the value conclusion. The estimated market value of the land as vacant was not supported in the appraisal by vacant land sales with an analysis. [SR 1-4]
- The appraiser did not adequately reconcile the quality and quantity of data available and analyzed within the approaches used (only sales comparison approach used). [SR 1-6]
- The appraisal lacked sufficient detail to enable the intended users of the appraisal to understand the report properly. [SR 2-1]
- The listing information for the subject is incorrect and incomplete. The neighborhood trends are stated to be in balance, stable and to have a typical marketing time of 3 to 6 months. The comments on the market conditions include a statement about marketing time that is incomplete. The typical market time for all the sales is shown to be 185 days or greater and the subject was marketed for 658 days; this would indicate a market time of over 6 months.
- The appraiser states that the “adjustment for concessions for comparable 1 reflect that the seller paid part of the closing costs”. Sale 1 was a cash sale and no concessions or adjustments were shown so the above is an incorrect statement.

Licensing History: Certified Residential 2/12/1993-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found no merit in Complainant’s allegation that Respondent was slow to act on the order, as any agreement concerning the delivery date of an appraiser is an agreement between the lender and the appraiser only. The reviewer found that Respondent correctly stated the square footage measurements by stating them separately in the appraisal report. The reviewer did find several violations of USPAP within the appraisal report. As such, Counsel recommends the authorization of a fifteen (15) hour Residential Report Writing Course to be satisfied within one hundred eighty (180) days of the execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Hall made a motion to close the case by sending a letter of caution. This was seconded by Ms. Point. The motion carried unopposed.

9. 2013023421

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission and alleged that Respondent submitted an altered/misleading course completion certificate, where he had used whiteout over another student’s name and license number.

Respondent responded to the complaint stating that for some reason, a copy of his transcript was not ready the day of class, and the instructor had to give him a copy to write in his own name and information. Respondent claimed that it was not his fault that the school did not have the certificate ready the day of class. Respondent stated that when he realized at the end of class that the instructor had nothing to give him to show completion of the class, he took a photo of another student's transcript and used white-out to fill in his own name and address. Respondent then stated he emailed the student transcript, including his own personal information for the purpose of making the Commission aware that he had attended this course pending official documentation from the school. Respondent stated the he did complete the course and was attempting to meet the deadline for renewal. Respondent stated he completed the last on-line course just hours prior to submitting the "Uniform Request for Education Credit".

It should be noted that subsequent to Respondent sending in the altered certificate, this office did receive a proper course completion certificate from the school pertaining to Respondent's attendance.

Licensing History: Certified General 12/13/1991-Present

Disciplinary History: 941736-Dismissed; 199900651-Closed with no further action; 200206062-Dismissed; 200705886-Dismissed

Reasoning and Recommendation: With regard to this complaint, it should be noted that T.C.A. 62-39-326 states in pertinent part as follows, "The rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended, or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars (\$1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds: (1) Procuring or attempting to procure a license or certificate pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a license or certificate or through any form of fraud or misrepresentation; (4) An action or omission involving dishonesty, fraud or misrepresentation; or (5) A violation of any of the standards for appraisals and appraisal practice as set forth in this chapter and the rules and regulations promulgated by the Commission. While Respondent did, in fact, take and complete the required education course, he did submit a false education certificate to this office. As such, Counsel recommends that any disciplinary action against Respondent be left to the will of the Commission. Counsel recommends discussion on the matter to determine the proper course of action, keeping in mind that discipline in the form of a civil penalty may be assessed up to one thousand dollars (\$1,000) per violation.

Discussion and Vote: The Board discussed the amount of a suitable fine, given that this appeared to be a breach of ethical conduct on the part of a Real Estate Appraiser. Mr. Collinworth made the motion to impose a fine of one thousand (\$1000) dollars. This was seconded by Mr. Johnstone. The motion carried by majority, with Mr. Hall abstaining from the vote.

10. 2013016761

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission, as the result of a new article, alleging that Respondent violated AMC independency. Such news article, dated August 19, 2013 stated that Respondent was facing a lawsuit from a former chief appraiser, who is alleging that Respondent violated federal regulations and terminated her employment in response to her complaints. It was alleged that

Respondent's parent corporation developed a program to recruit mortgage brokers and loan officers by telling prospective recruits they could provide their own personal list of appraisers to be included on the approved panel for the appraisal process at Respondent AMC's business.

Regulations under the Truth in Lending Act (TILA) requires that employees, officers, and directors in the loan process not be directly involved in selecting, retaining, recommending, or otherwise influencing the choice of who will perform a valuation or who may be included from a panel of approved appraisers.

Respondent sent a response to the complaint stating that Respondent and its parent corporation have thoroughly investigated the claims made by the former employee of Respondent and have determined that her lawsuit has absolutely no merit. Respondent stated that it intends to assert a vigorous defense against the former employee's false accusations.

Licensing History: Registered AMC 10/27/2011-10/26/2015

Disciplinary History: 201202543-Closed with no action

Reasoning and Recommendation: Respondent is set for trial on the above-referenced matter on August 18, 2014 in Orange County, California. Due to the severity of the allegations in relation to the Truth in Lending Act, Counsel recommends the authorization of a Litigation Monitoring Order pending the outcome of the jury trial on the previously mentioned date of August 18, 2014.

Vote: Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The motion carried unopposed.

SUPPLEMENTAL LEGAL REPORT from Senior Counsel, Mr. Joseph

**1. Case No. L12-APP-RBS-2012011061
Docket No. 12.36-123750A**

In this matter, in 2011, a prior complaint (No. 2011030011) was filed against Respondent by an AMC regarding the Respondent's appraisal of a particular subject property. This complaint was reviewed and resulted in a signed consent order entered in April, 2012 imposing a \$1,000 civil penalty and requiring Respondent to complete additional corrective education.

In June, 2012, a newer complaint was filed against Respondent by the lender regarding the same appraisal (same effective date). This newer complaint was inadvertently processed and reviewed and resulted in a newer proposed consent order in 2013 along with an unrelated complaint. Respondent did not accept the 2013 proposed consent order earlier this year and both of the newer complaints were transferred to litigation counsel for a formal proceeding.

A Notice of Hearing and Charges was filed in November of this year encompassing both newer complaints and after Respondent questioned whether she could be disciplined again on the same property, litigation counsel obtained a signed copy of the April, 2012 consent order and determined that Respondent had in fact been disciplined in that order for USPAP violations committed in the subject appraisal report.

Since administrative res judicata would bar a Respondent from being disciplined twice for the same conduct, litigation counsel was required to amend the Notice of Charges to strike all references to the subject appraisal report regarding which this Respondent was previously

disciplined in the April, 2012 consent order.

Respondent has been informed of the mistake and she has indicated to litigation counsel that she is interested in settling this formal proceeding for a voluntary revocation of her Tennessee credential and the payment of the State's hearing costs (\$200 initial docketing fee).

Prior Discipline:

- Case No. 2011030011 (\$1,000 civil penalty assessed in April 26, 2012 consent order and Respondent required to complete 30 hr. Basic Appraisal Procedures course and 15 hour residential report writing course within 180 days of order)
- Immediate and indefinite suspension from October 30, 2012 through July 9, 2013 for failure to timely deliver to Executive Director evidence of having successfully completed the above courses.

Recommendation: Litigation counsel requests the ability to offer the Respondent a proposed Agreed Final Order voluntarily revoking her Certified Residential certificate and assessing against her the State's investigatory and hearing costs (\$200 initial docketing fee), in the one remaining complaint in this formal proceeding. If thus formal settlement offer is rejected, the case will proceed to hearing.

Vote: Mr. Hall made the motion to accept counsel's recommendation as presented. This was seconded by Mr. Johnstone. The vote passed unanimously.

Having no further business, Chairman Green adjourned the meeting at 1:10 p.m.