



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

November 14, 2011
Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met November 14, 2011 at 9:00 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Nancy Point, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

James E. Wade, Jr.
Nancy Point
Rosemarie Johnson
Norman Hall
Michael Green
Timothy Walton
Herbert Phillips
Erik Sanford

COMMISSION MEMBERS ABSENT

Dr. Edward A. Baryla

STAFF MEMBERS PRESENT

Bill Giannini
Kimberly Whaley
Aminah Saunders
Eman Youssef

STAFF MEMBERS ABSENT

Nikole Avers

ADOPT AGENDA

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

MINUTES

The October 10, 2011 minutes were reviewed. Mr. Walton made the motion to accept the minutes as written. It was seconded by Mr. Phillips. The motion carried unopposed.

Experience Interviews

Kenneth Brown made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Ms. Point was the reviewer and requested an additional appraisal report be selected for review which shows use of the income approach to be reviewed by Mr. Walton.

Mr. Hall made the motion to accept the recommendation and Mr. Green seconded the motion. The motion carried unopposed.

Richard K. Hinkle, made application to upgrade from a registered trainee to become a license real estate appraiser. Mr. Phillips was the reviewer and recommended approval of his experience request. Mr. Wade made the motion to accept the recommendation and Mr. Green seconded the motion. The motion carried unopposed.

Education Committee Report

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

November, 2011 Education Committee Report

Course provider	Course #	Course Name	Instructors	Hrs.	Type	Rec.
Columbia Institute	1528	Mortgage Fraud- Appraiser Risk Management, No. 027	Bernerd Boarnet, Amelia Lovorn-Brown, George R. Harrison, Diana T Jacob, Bryan Reynolds	5	CE	for
Appraisal Institute	1538	Fundamentals of Separating Real & Personal Property from Intangible Business Assets	David Lennhoff, Maureen Mastroieni	14	CE	for

Individual Course Approval

Name	Lic.#	Provider	Course name	Hours	Type	Recommendation
Edward L. Adkins	606	Kentucky Real Estate Appraiser's Board	"What a Mess...Foreclosures, Deeds in Lieu, Short Sales, Bankruptcy" & "KREAB News and Updates"	7	CE	For (The KREAB news portion includes acceptable topics such as USPAP changes, FHA updates, and AMC info, etc.)
Edward L. Adkins	606	Kentucky Real Estate Appraiser's Board	A Day with the Board- 2011	3.5	CE	For (This course includes various acceptable topics such as Dodd-Frank, standards reviews, and mortgage fraud info, etc.)
Relda A. Adkins	3747	Kentucky Real Estate Appraiser's Board	"What a Mess...Foreclosures, Deeds in Lieu, Short Sales, Bankruptcy" & "KREAB News and Updates"	7	CE	For (The KREAB news portion includes acceptable topics such as USPAP changes, FHA updates, and AMC info, etc.)
Relda A. Adkins	3747	Kentucky Real Estate Appraiser's Board	A Day with the Board- 2011	3.5	CE	For (This course includes various acceptable topics such as Dodd-Frank, standards reviews, and mortgage fraud info, etc.)

LEGAL REPORT:

1. 2011019131 Mr. Michael Orman was the reviewer.

This complaint was previously presented at the October 2011 Commission meeting and is being presented again by request of the Respondent for a revision to the proposed disposition terms.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property by utilizing inappropriate comparable properties. The complainant further alleges that in the supplemental addendum the Respondent misreported the predominant neighborhood value.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- In the sales comparison approach the reviewer alleged violations of the SR 1-1(a) (b) (c); SR 1-4(a); SR 2-1(a) & SR 2-2(b) (viii).
- In the neighborhood value section predominate neighborhood value was inaccurately reported. [SR 1-1(c)]

License History: Registered Trainee 10/31/2005 – 12/12/2007
Certified Residential 12/13/2007 - present

Prior Complaint / Disciplinary History: 200901251 Closed w/ Consent Order (\$1000.00 civil penalty and forty five (45) hours of corrective education).

Reasoning and Recommendation: The Respondent was required to take a fifteen (15) hour Site Valuation course and a thirty (30) hour Appraisal Procedures course pursuant to a 2009 consent order. The coursework was completed in June of 2010 and the appraisal assignment at issue was completed in July of 2010. The allegations contained in the prior consent order bear some similarity to the current allegations. Given the Respondent's prior discipline and some concern as to whether the corrective education had the desired impact Counsel recommends a Consent Order imposing a one thousand five hundred dollar (\$1500.00) civil penalty payable within one hundred and eighty (180) days of execution and a fourteen (14) hour Residential Report Writing course, a five (5) hour Data Verification Methods course and a seven (7) hour Scope of Work course to be completed within ninety (90) days. The Respondent would also be placed on a one (1) year probation during which time the Administrative Director would request the work log at the one hundred and twenty (120) day mark and request at least one (1) appraisal report for review to ensure that the interests of the public are adequately protected.

Revised Proposed Revision: The revision to the consent order would require the Respondent to meet all terms as previously approved however the Respondent requests that the Consent Order delete the one (1) year probation language. The consent order would require the Respondent to provide the work log one hundred twenty (120) days from the execution and request at least one (1) appraisal for review to ensure USPAP compliance.

Vote: Mr. Wade made a motion to deny the Respondent's request. Mr. Green seconded that motion. The motion carried unopposed.

2. 201102149 Mr. Michael Orman was the reviewer.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property by using inappropriate comparable properties and failed to consider lot size in the appraisal report.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Minor deferred maintenance was not analyzed in the description of the improvements or sales comparison approach. [2-1(b)]

- The site value was not adequately supported. [1-1(a), 1-4(b) (i) (iii), 2-2(b) (viii)]
- Statements in the Cost Approach and Income Approach contained inconsistencies and contradictions. [2-1(b)]

In response to the specific allegations noted above the Respondent states as to the minor deferred maintenance, the intended user of the report is the lender/client with the purpose of the report being mortgage lending purposes. Within the context of the intended use deferred maintenance was handled according to the secondary market guidelines and client engagement instructions. The Respondent states that the minor deferred maintenance was taken into consideration when making the overall assessment of the condition of the subject and as such is analyzed in the sales comparison grid on the overall condition of the subject, including the minor deferred maintenance. The report further states that all value effecting dissimilarities were adjusted according to market reaction.

As to the allegation, that the site value was insufficiently supported the Respondent states that the information contained in the appraisal report regarding interviews with local builders indicates that the information obtained from local builders is used to supplement the cost data. The Respondent states that this statement does not describe an opinion or conclusion and simply declares that the appraiser conducts interviews to supplement the appraiser's knowledge and skill and stay abreast of changes in the profession. The Respondent states that USPAP does not require an appraiser to support this comment in this context. The Respondent states that the site value is adequately supported in the appraisal and that land sales were analyzed and although sales data was limited the site value is supported.

License History: Certified General 02/05/2008 - present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Given the Respondent's thorough response to the alleged violations, no prior disciplinary history and an apparent limited risk of financial harm to the public Counsel recommends a Letter of Warning regarding the violations as articulated above.

Vote: Mr. Hall made a motion to send a Letter of Instruction instead of a Letter of Warning. Mr. Phillips seconded that motion. The motion carried unopposed.

3. 2011025241 There was no reviewer in this matter.

This complaint was filed by an AMC and alleged that the Respondent communicated a misleading appraisal report by misreporting the comparable sales data and misreporting data regarding the subject property.

License History: Certified Residential 08/27/2001 – 08/31/2011

Prior Complaint / Disciplinary History: 200801884 Consent Order imposing 3K civil penalty, 200902335, 200902376, 201100022 Closed by Consent Order imposing a 1K civil penalty and six (6) month suspension.

Reasoning and Recommendation: Upon receiving notice of the above captioned complaint the Respondent indicated through Counsel the intent to surrender the appraiser license. The Respondents credential expired August 31, 2011. Counsel recommends that the complaint matter be CLOSED and FLAGGED in the event the Respondent attempts to renew the license.

Vote: Mr. Hall made a motion to accept the recommendation. Ms. Johnson seconded that motion. The motion carried unopposed.

4. 2011017461/2011017462

Mr. Wilson was the reviewer.

This complaint was filed by a lender and alleged that the Respondent communicated a misleading 2008 appraisal by utilizing inappropriate comparable and failing to address maintenance issues.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Neighborhood and Sales Comparison Approach indicate a lack of geographic competence. [Competency Rule, SR 1-1(b) (c), SR 1-2(e) (i), SR 2-2(b) (iii)]
- The subject improvements are inadequately described. [1-2(e) (i), 2-2(b) (iii)]
- No analysis of lot sales in the reported value. The Cost Approach was included but no cost sheets were included in the submitted material. [1-4(b), Ethics Rule: Recordkeeping]

The Respondents submitted a joint response. As to the neighborhood boundaries the Respondent states that any comparable located within one (1) mile of the subject is considered part of the subject neighborhood. The Respondent states that although two (2) of the comparable properties are outside the subject's vicinity they are still considered well within the subject's neighborhood. The Respondent also provided detailed information regarding the neighborhood to rebut the allegation of geographic incompetence. The Respondent further states that the value conclusion is well supported and that the Respondent works hard to reach the most credible value conclusion supported by the best comparable properties available.

License History: Supervisor: Certified Residential 01/04/1996 - Present
Trainee: 12/13/2005 - Present

Prior Complaint / Disciplinary History: None.

Reasoning and Recommendation: Respondent – supervisor has had no prior discipline in twenty five (25) years as a licensed appraiser however the specific allegations are significant, therefore Counsel recommends a consent order imposing a civil penalty in the amount of five hundred dollars (\$500.00) and a fifteen hour Sales Comparison Approach course to be completed within ninety (90) days of execution with no credit given for corrective education.

As to trainee, Counsel believes that trainee status is mitigating and therefore recommends the imposition of a fifteen (15) hour Sales Comparison Approach course to be completed within ninety (90) days.

Counsel is of the opinion that the civil penalty (supervisor) should act as a sufficient deterrent while the education requirements should assist the Respondents in becoming more efficient appraisers thereby protecting the interest of the public.

Vote: Mr. Phillips made a motion to accept the recommendation. Mr. Green seconded that motion. The motion carried unopposed.

5. 2011028131

There was no reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent over valued the subject property. The Respondents appraiser credential expired February 10, 2009 and according to the ASC the Respondent does not hold a credential anywhere. **License History:** Licensed RE Appraiser 01/06/1993 – 02/10/2009

Prior Complaint / Disciplinary History: 200900381 (closed due to expired license)

Reasoning and Recommendation: Counsel recommends the complaint be CLOSED and FLAGGED should the Respondent reapply for licensure.

Vote: Mr. Phillips made a motion to accept the recommendation. Mr. Hall seconded that motion. The motion carried unopposed.

6. 2011024121 Mr. Sam Pipkin was the reviewer.

The complaint was filed by a consumer and alleged that the Respondent was abrupt, abrasive and would not allow complainant to speak during the appraisal. The complaint also alleged that the Respondent failed to accurately report the quality and condition of the bedrooms.

The Respondent states that in his twenty (20) year career he has never been accused of being unprofessional and states that the complainant's real issue may have been with the appraised value. The Respondent states that he is a professional and would not do anything to diminish the profession or his role.

REVIEWER CONCLUSIONS: No violations of USPAP were noted.

License History: Licensed RE Appraiser 01/08/1992 – 09/16/2007
Certified Residential 09/17/2007 - present

Prior Complaint / Disciplinary History: 20070696 (closed w/ no action)

Reasoning and Recommendation: Counsel recommends DISMISSAL as no violations of USPAP were noted.

Vote: Mr. Hall made a motion to accept the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

7. 2011024071 Mr. Sam Pipkin was the reviewer.

The complaint was filed by a home builder and alleged that the Respondent undervalued a residential property by using inappropriate comparable sales.

The Respondent states that the value conclusion is well supported and that the complainant's issues are likely a result of a misunderstanding regarding the contents of the appraisal.

REVIEWER CONCLUSIONS: No violations of USPAP were noted.

License History: Certified Residential 12/27/1991 - present

Prior Complaint / Disciplinary History: 200312813 (closed), 20051728 (closed)

Reasoning and Recommendation: Counsel recommends DISMISSAL as no violations of USPAP were noted.

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

8. 2010032701 Mr. Michael Orman was the reviewer.

This complaint was filed by a lender and alleged that the Respondent overvalued a residential property by failing to accurately report the condition of the property in a 2007 appraisal report.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The prior listing was not analyzed. [1-5(a), 2-2(b) (viii)]
- The sales utilized were not properly verified and the analysis and conclusions of the Sales Comparison Approach was not adequately supported. [Ethics Rule: Recordkeeping, SR1-1(a) (b) (c), SR 1-4(a), SR 2-2 (b) (viii)]
- The site value was not supported. The Cost Approach data was inconsistent and the conclusions were inadequately supported. Physical depreciation was not calculated property or explained. [SR 1-1(a) (b) (c), SR 1-4 (b) (i) (ii), SR 2-2 (b) (viii)]

- The exclusion of the Income Approach is not adequately explained. [SR 2-2(b) (viii)]
- Reconciliation failed to address the quality/quantity of data in arriving at the final value. [SR 1-1(a) (b) (c), SR 1-6 (a) (b), SR 2-1(b), SR 2-2(b) (viii)]

The Respondent states that the subject was not listed on the effective date of the appraisal and in support provided a MAAR data "Comparable Sales Analysis" sheet dated August 2005. As to the verification and analysis of the comparable properties the Respondent states that analysis is throughout the appraisal report and that all sales were considered of equal value and have been appraised by fellow appraisers. The Respondent states that the review was unnecessarily nitpicky and many of the issues noted have very little to do with real world HUD and FNMA appraisals. The Respondent further states that he understands that USPAP is open to interpretation and believes that the opinion of value is well supported by the appraisal report. The Respondent states that he has 32 years of professional appraiser experience and several college degrees and believes that the collapse of the real estate market is due to the use of skewed statistical data and averaging median value accompanied by prolific subprime no document mortgages.

License History: Certified Residential 11/27/1991 - present

Prior Complaint / Disciplinary History: 200317448 (closed w/Consent Order imposing 500.00 civil penalty)

Reasoning and Recommendation: The Respondent has been appraising since 1991 with one (1) prior disciplinary matter. The Respondent has been very responsive to Counsel and has provided several detailed and lengthy responses however the allegations are significant. As such Counsel recommends the imposition of a Consent Order imposing a one thousand dollar (\$1000.00) civil penalty, a fifteen (15) hour USPAP course and a fifteen (15) hour Sales Comparison Approach course with no continuing education credit. Counsel is of the opinion that the education requirements should assist the Respondent in becoming a more knowledgeable and thoughtful appraiser thereby protecting the interests of the public.

Vote: Mr. Green made a motion to accept the recommendation. Mr. Walton seconded that motion. The motion carried unopposed.

9. 200901156 Mr. Danny Wiley was the reviewer.

A consent order was executed in this matter on June 21, 2010. The terms of the consent order required the payment of a five thousand dollar (\$5000.00) civil penalty and completion of 105 hours of corrective education. On December 29, 2010 the Respondent paid three (3) thousand dollars towards the civil penalty. The terms of the consent order specifically provide that failure to comply within nine (9) months of the execution date would result in a ninety (90) day suspension. The trigger date for suspension would have been on/about March 21, 2011, however the Respondent's license was not suspended on that date. As written, the consent order provided no additional language that would trigger a suspension. Around March 15, 2011 the Respondent and his Counsel indicated that Respondent had a litany of personal troubles and requested an additional extension to comply with the terms. An extension was granted that allowed the Respondent to comply by November 1, 2011. The Respondent again failed to comply. As written, the original consent order failed to reflect the intent of the Commission - the consent order should have stated that the Respondent would be SUSPENDED for a MINIMUM of ninety (90) days or indefinitely until the terms of the Consent order have been met.

As such, Counsel recommends the imposition of a new Consent Order which will require the Respondent to comply with all terms by December 31, 2011. In the event the Respondent fails to fully comply with the original disposition the license will be suspended immediately and indefinitely until the terms are complied with. The Respondent has signed the revised consent order and should the Commission approve the revised consent order it would be executed today.

Vote: Mr. Wade made a motion to accept the recommendation. Mr. Hall seconded that motion. The motion carried unopposed.

10. 2011004111

Mr. Sam Pipkin was the reviewer in this matter.

This complaint is represented to include the Respondent's response. This complaint was filed by a lender and alleged that the Respondent over valued a residential property in a January 2007 appraisal report by using sales that were not exposed to MLS and which represented the high side of the market.

In a lengthy and detailed statement the Respondent indicates that the value conclusion was supported by the information that was available at the time of the appraisal.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The Respondent failed to analyze a previous sale of the subject and the pending contract. [SR 1-5 (a)]
- The Respondent failed to adequately describe the condition of the property and improvements. The adjustments made require additional analysis and explanation. [SR 1-4 (a)]

In response to the specific allegations, the Respondent states that the pending contract for sale was reported in the appraisal. In addition, the condition of the property was described as "average" a term understood in the Respondent's area as consistent with those available at large retail home improvement stores. As to the allegation that the Respondent failed to adequately describe the improvements, the Respondent states that the fact that the subject had been renovated is reported in the addendum. The Respondent states that adjustments were not necessary between the subject and comparable properties as due to the subject's renovation the effective age of the subject was consistent with that of the comparable properties.

License History:	Registered Trainee	05/03/1999 – 06/18/2001
	Certified Residential	01/23/2002 - present

Prior Complaint / Disciplinary History: 200900153, 200900155, 200900156, 200900157, 200900158, 200900229 and 200900313 (all closed by Agreed Order imposing a three thousand dollar (\$3000.00) civil penalty, five thousand dollars (\$5,000.00) in investigatory and other costs and forty five (45) hours of corrective education and a twelve (12) month probation.

Reasoning and Recommendation: On March 14, 2011 a consent order was executed which resolved the above noted complaint matters. As indicated the Respondent is required to complete forty five (45) hours of corrective education and pay significant costs. The appraisal matter at issue is from 2006 - the previously resolved matters are from 2007 and 2008. Counsel recommends a consent order which would impose twelve (12) months of probation and require the Respondent to deliver the experience log and any requested appraisal to the Administrative Director for possible review.

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

Aminah Saunders presented the Rule Making Notification pertaining to the Regulatory Flexibility Act.

Agreed Order request for reconsideration:

Samuel C. King, by and through his attorneys present his motion to extend the time to complete "a total of hours in residential report writing or case study courses (w/exam) by December 31, 2011" as agreed in the Agreed Final Order which was fully signed and filed on March 14, 2011, resolved Cases number L09-APP-RBS-2009001531, 2009001541, 2009001551, 2009001561, 2009001571, 2009001581, 2009002291, and 2009003131.

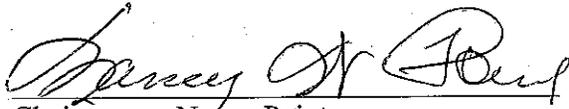
Vote: Mr. Wade made a motion to accept to extend the time to compete the term of the agreed final order by December 31, 2011. Mr. Phillips seconded that motion. The motion carried unopposed.

Petition for Stay of the Final Order:

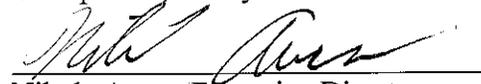
Carol Smith, by and through counsel filed a motion for Stay of the Final Order; on October 20, 2011, the Commission entered an opinion and Final Order against Ms. Smith, revoking her license (CR#2827) and requiring the payment of \$2,675.00 in investigatory and hearing costs. Ms. Smith would ask that the Commission consider allowing her to maintain her license until such time as a judicial review of the revocation of her license has been completed.

Vote: Mr. Wade made a motion to deny the Petition for Stay of the Final Order. Ms. Johnson seconded that motion. The motion carried unopposed.

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Being no further business, the meeting was adjourned at 10:45a.m.



Chairperson, Nancy Point



Nikole Avers, Executive Director