



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

**December 10, 2012 - Minutes**  
**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met December 10, 2012 at 9:25 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Norman Hall, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Norman Hall  
Michael Green  
Rosemarie Johnson  
Mark Johnstone  
Nancy Point  
Herbert Phillips  
Jason Covington  
Timothy Walton

**COMMISSION MEMBERS ABSENT**

Dr. Edward A. Baryla

**STAFF MEMBERS PRESENT**

Nikole Avers  
Keeling Baird

**Welcome New Commission Member**

Mr. Hall welcomed new Commission member, Mark Johnstone, who served previously on the Commission and was recently appointed by the Governor for a new term.

**ADOPT AGENDA**

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

**MINUTES**

The October 8, 2012 minutes were reviewed. Ms. Point made the motion to accept the minutes as written. It was seconded by Mr. Phillips. The motion carried unopposed.

## EXPERIENCE INTERVIEW

**Patrick Alan McMakin, Jr.** made application to upgrade from a registered trainee to become a certified general real estate appraiser. Ms. Point was the reviewer and made a motion for approval of his experience request. Mr. Phillips seconded the motion. The motion carried unopposed.

**Paul Busdiecker** made application to upgrade from a registered trainee to become a state certified general real estate appraiser. Mr. Hall was the reviewer and he recommended this matter be deferred until the applicant submits two additional reports for experience review. He indicated one of the two reports may be a demonstration report, but that both reports will need to be non-residential appraisal assignments. No vote taken on this matter. An additional experience review appointment will be scheduled once the appraisal reports have been received.

**Patrick Chaffin** made application to upgrade from a registered trainee to become a state certified residential real estate appraiser. Mr. Green was the reviewer and made a motion for approval of his experience request. Mr. Walton seconded the motion. The motion carried unopposed.

**Michael Brandon Malone** made application to upgrade from a registered trainee to become a state certified residential real estate appraiser. Mr. Phillips was the reviewer and made a motion for approval of his experience request. Ms. Point seconded the motion. The motion carried unopposed.

### Education Committee Report

Dr. Baryla reviewed the education and emailed his recommendations to the Real Estate Appraiser Commission, as seen below. After discussion the education report was decided to be voted on in two parts. Mr. Walton made a motion to accept Dr. Baryla's recommendations on the four (4) Dynasty School courses where approval is pending a letter from the primary provider, Hondros. Mr. Phillips seconded the motion. The motion carried unopposed. All remaining matter Mr. Hall made a motion to approve and Mr. Covington seconded the motion. The motion carried unopposed.

## December 10, 2012 Education Committee Report

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Rec.
Dynasty School	1613	On-line 2012-2013 Equivalent USPAP Update Course	Robert Ableson, Ph.D.	7	CE	For, pending use approval from Hondros
Dynasty School	1614	On-line Challenging Assignments for Residential Appraisers	Robert Ableson, Ph.D.	7	CE	For, pending use approval from Hondros

Dynasty School	1615	On-line Covering All Bases in Residential Reporting	Robert Ableson, Ph.D.	7	CE	For, pending use approval from Hondros
Dynasty School	1616	On-line Foreclosure Basics for Appraisers	Robert Ableson, Ph.D.	7	CE	For, pending use approval from Hondros
Appraisal Institute	1617	Complex Litigation Appraisal Case Studies	Shawn Wilson	7	CE	For
Appraisal Institute	1618	Residential and Commercial Valuation of Solar	Sandra Adomatis	15	CE	For
Appraisal Institute	1619	Business Practices and Ethics	Stephanie Coleman	4	CE	For
NAIFA	1384 * Late renewal	19.1 An Appraiser's Guide to Environmental Issues	Mike Orman	7	CE	For
NAIFA	1622	Fannie Mae Selling Guide – Appraisal Guidelines	Mike Orman	7	CE	For
American Continuing Education Institute dba Calypso Continuing Education	TBD	On-line FHA Site Inspection	Francis S. Finigan	7	CE	For

#### Instructor Approval Requests

Instructor	Course Provider	Course Number	Course Name	Hours	Type	Rec.
Steve Maher	McKissock	1594	Disciplinary Cases – What NOT do to	7	CE	For
Steve Maher	McKissock	1608	FHA for Today's Appraiser	7	CE	For
Steve Maher	McKissock	1588	Introduction to Complex Appraisal Assignments	7	CE	For

#### Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type	Rec.
Starr Jenkins	Kaplan Professional Schools	Good, Better, Best: When Price, Quality, and Value All Matter	7	CE	For

## AMC APPLICATION REVIEWS – CHARACTER QUESTION

Integrity Appraisal Management, LLC, application # 157, submitted an application to become a registered appraisal management company on October 31, 2012. Shawn Thompson was identified as the controlling person for this company and he checked “Yes” to Character Information question 3 which reads, “Have you ever been convicted of, pled guilty, or pled no consent to any criminal offence, or is there any criminal (felony or misdemeanor) charge now pending against you?”. His supplemental letter indicated that he was arrested in May of 2004 and March of 2009 for DUI offences. He indicated that the fines, fees and probation criteria have been met. This matter is brought to the Commission for consideration because the offense is less than five (5) years ago.

The executive director recommended approval of this application.

### Commission Policies #9

*In cases where an AMC applicant answered “yes” to a question on the character information page of their application, and the offense is five (5) years old or older, and the offense does not fall under T.C.A. 62-39-409 (2) (a) or Rule 1255-08-.01 (1) (f), the Executive Director of the Tennessee Real Estate Appraiser Commission may approve the AMC application without presentation to the Commission. The Executive Director in his/her discretion may present any application to the Commission for approval.*

**Vote:** Mr. Walton made the motion to approve the application and Ms. Johnson seconded the motion. The motion carried unopposed.

### Legal Report

---

#### 1. 2011028201

This complaint was filed by a consumer/commercial property owner and alleged that the Respondent misreported occupancy, square footage (GLA), rental rates, and income capitalization rates. Additionally, the complaint alleged that the sales comparison was performed incorrectly. Complainant alleged that Respondent admitted that there may have been some errors but that nothing was done about it.

The Respondent sent a lengthy response indicating that he thought this complaint was rooted in the Complainant’s unfortunate economic circumstances with the subject building. Respondent stated that his client, a large regional bank, accepted the appraisal report as it was prepared, and no revisions were requested. Respondent also suggested that the Complainant’s fundamental misunderstanding of the appraisal process lead him to faulty conclusions regarding the credibility of the appraisal report. At the time of the commercial property inspection, one of four office spaces in the subject building was unoccupied and unfinished. Subsequently, it was revealed that the Complainant wanted the appraisal to include a prospective value premise, assuming his occupancy of the vacant office suite, but this was not requested by the client. Respondent states that the square footage utilized in the appraisal is credible, and the

capitalization rates are supported by two widely-accepted industry publications, Price Waterhouse/Korpacz and Realty Rates. Additionally, Respondent stated that the comparable sales utilized in the report are credible, and in his professional judgment, they are the best substitute properties available for comparison. Respondent stated that the appraisal that is the subject of this complaint is credible, and it has been reviewed and accepted without any revisions requested.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The sales comparison was not appropriately supported. The report does not provide adequate reasoning nor has sufficient support been provided for the analysis performed, adjustments made, and conclusions offered in the sales comparison approach. [SR 1-1(b)(c); SR 2-2(b)(viii)]

<b>License History:</b>	Certified General	1/13/1992-2/14/1996
	Expired	2/15/1996-8/1/1996
	Active as Certified General	8/2/1996-Present

**Prior Complaint/ Disciplinary History:** 201101874 (Closed)

**Reasoning and Recommendation:** The reviewer found that the inconsistencies and lack of analysis reduce the credibility of the opinions offered and the reliability of the conclusions presented in the sales comparison approach to value. These items can have an effect on the intended users' ability to understand the reasoning presented.

The appraisal at issue was performed in 2011, at a time when the Respondent had been licensed as Certified General for about nineteen (19) years. Based on the research completed for this review, it appears the Respondent has identified sales that are similar to the subject from potentially similar market areas. This information appears to have been properly collected and verified, but there was a lack of analysis of those markets as they relate to the subject area. As such, Counsel recommends **Closure with a Letter of Warning** regarding the issues noted by the reviewer.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

**2. 2012018321 There was no reviewer in this matter.**

This complaint was filed by a consumer and alleged an incomplete appraisal by Respondent. The Complainant also alleged that Respondent did not return the phone calls of Complainant who paid for the appraisal and did not get complete service.

The Respondent states that when the appraisal was ordered, there was mention of a mobile home on a one acre lot located behind the subject property which was thought to be owned by someone else. Respondent first submitted the appraisal without the one acre and then at the request of Complainant's attorney, Respondent added in the one

acre and resubmitted the appraisal, which was paid for by the attorney. Respondent states that Complainant filed the complaint before checking with the attorney to see if the appraisal had been corrected.

**Licensing History:** Registered Trainee 5/29/1997-11/13/2000  
Certified Residential 11/14/2000-Present

**Disciplinary History:** 2012005441 (Closed with Consent Order imposing a civil penalty)

**Reasoning and Recommendation:** Respondent resubmitted a second appraisal at the request of Complainant's attorney. Counsel spoke with the attorney on November 14, 2012 via telephone, and he indicated that this complaint was centered around an estate/property dispute between family members. Complainant's attorney indicated that Respondent had provided him with a corrected version of the appraisal report that included the one acre lot that was in question as the subject of this complaint. Complainant's attorney stated that Respondent performed his job and followed up with everything that Complainant's attorney requested and that Respondent's actions with the original appraisal report were not, in any way, intentional. Thus, Counsel recommends **Closure** of this case with no action against Respondent.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

**3. 2012017651 There was no reviewer in this matter.**

This complaint was filed by a consumer and alleged unlicensed conduct on the part of Respondent.

Respondent, who holds certified general appraisal licenses in New Jersey and Texas, admits in his response that he did not have a Non-Resident Temporary Practice Permit at the time the appraisal was conducted in the state of Tennessee, as required by T.C.A. 62-39-338.

**Licensing History:** None/Unlicensed

**Disciplinary History:** None

**Reasoning and Recommendation:** Respondent submitted an appraisal report for a non-residential property/airport. Respondent is not licensed as a Real Estate Appraiser in the state of Tennessee at this time, nor was he licensed as a Real Estate Appraiser in Tennessee at the time of the appraisal. Respondent also admitted that he did not have a Non-Resident Temporary Practice Permit with the state of Tennessee at the time the appraisal work was done. Our file contains the appraisal report submitted by Respondent, including a letter from Respondent to Complainant stating that Respondent was submitting its valuation report, containing information considered

relevant to both the value of the property and the method by which Respondent analyzed collected data to arrive at the value conclusion. The report contained an estimate of the market value of such property at the time and appears to be intended to be used as an official appraisal report by Complainant. The report submitted by Respondent is very lengthy and detailed. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000.00) for unlicensed activity on the part of Respondent, to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while also protecting the interest of the public.

**Vote:** After some questions, Mr. Green made the motion to defer this matter until the date of appraisal inspection and date of report are investigated and the Complainant is contacted regarding these dates. This motion was seconded by Mr. Walton. The motion carried unopposed.

**4. 2012013511, 2012013512 There was no reviewer in this matter.**

This complaint was filed by an appraiser and alleged the coercion/influence of an appraiser to violate the Uniform Standards of Professional Appraisal Practice. The Complainant claims to have completed a couple of reviews for Respondent and that the review process has stretched the boundaries of what is accepted under USPAP, as well as gone beyond the instructions given on the assignment form. Complainant claims that complying with the revisions requested by Respondent would violate USPAP. Complainant also alleged that the reviewer may not have geographic competency and that the reviewer will not discuss these issues or return phone calls.

The Respondent sent a response indicating that they were a registered Appraisal Management Company.

**Licensing History:** Licensed Appraisal Management Co. 2011-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** There was no definitive evidence to support the finding of coercion of an appraiser to violate USPAP on the part of Respondent Appraisal Management Company. As such, Counsel recommends **Closure** of the matter, due to insufficient evidence of a violation.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Ms. Point. The motion carried unopposed.

**5. 2012009761 There was no reviewer in this matter.**

The complaint was filed anonymously by an appraiser and alleged that the Respondent attempted to influence the Complainant by threatening to withhold future business and threatening to demote the Complainant. Complainant appraiser alleged that if an

appraisal is accepted by an appraiser and cannot be completed for any reason, the Respondent will downgrade the appraiser. The Complainant also alleged violations of the Competency Rule, indicating that prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem because if the appraiser takes a specific job and cannot complete it due to lack of competency for that particular job assignment, the Respondent will downgrade the appraiser.

The Respondent states that the Complainant appraiser only viewed the order on the auto advertisement, but never accepted it. Respondent states that had the Complainant appraiser actually accepted the order, the complete address of the subject property would have been immediately visible to the Complainant, which would have also included an engagement letter from Respondent with explicit directions to the appraiser regarding the requirement of the appraiser's competency. The Respondent states that this method is an effort to cut down on order stealing by other appraisers. The Respondent also indicates that under its proprietary appraisal order fulfillment process, an appraiser is advertised orders based on the appraiser's detailed profile maintained by Respondent, thus, Respondent is offering the appraisers work based on information about the type of property which the appraisers, themselves, have indicated they are qualified to appraise, the appraisers' experience, previous work quality, current workload, and the scope of work. Respondent states that orders that are declined by the appraiser due to a competency issue do not affect the appraiser's rating or impact their ability to receive future orders from Respondent. Respondent denies engaging in any conduct that is a violation of Tennessee laws and regulations.

**Licensing History:** Licensed Appraisal Management Co. 7/1/2011-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** This complaint contains insufficient evidence of a violation on the part of Respondent. The Complainant, in this case, has failed to show proof of ever being "downgraded" by Respondent for failure to complete an order. As such, Counsel recommends **Closure** of this matter with no disciplinary action against Respondent.

**Vote:** Ms. Johnson made the motion to accept the recommendation and it was seconded by Mr. Walton. The motion carried unopposed.

**6. 2012013351 There was no reviewer in this matter.**

This complaint was filed by a real estate agent and alleged unlicensed conduct on the part of Respondent.

The Respondent states that it is a department of a federally regulated bank and not a separate legal entity of any kind. The purpose and function of Respondent is to coordinate the ordering and review of appraisals and the management of appraisers for

residential mortgage loans being considered or made by the bank. Respondent indicated that it does not provide any services to any lender or business other than the bank. Based on the foregoing, Respondent claims that it is exempt from registering as an Appraisal Management Company under T.C.A. 62-39-404, as being a bank that is subject to direct regulation or supervision by an agency of the United States government.

**Licensing History:** None/Unlicensed

**Disciplinary History:** None

**Reasoning and Recommendation:** T.C.A. 62-39-404 states, in pertinent part, that the “Tennessee Appraisal Management Company Registration and Regulation Act” 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. An entity exempt as provided in this subdivision... shall file a notice with the commission which contains the information required in 62-39-403.” Respondent, being a department of a bank and not a separate legal entity, may be exempt from registering as an Appraisal Management Company, but has not submitted notification of its exemption to the Commission at any time. Thus, Counsel recommends **Closure with a Letter of Instruction** regarding the requirement to notify the Commission of Respondent’s exemption status, according to T.C.A. 62-39-404.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Walton. The motion carried unopposed.

**7. 2012011051, 2012023191 There was no reviewer in this matter.**

These complaints were filed anonymously and alleged that the Respondent over-valued a residential property in an appraisal report by using inappropriate comparable sales.

The Respondent sent this office the information that it requested, as far as the work file and other documents, however, Respondent did not give a detailed response to the allegations by Complainant.

**Licensing History:** Licensed Real Estate Appraiser 3/13/2007-Present

**Disciplinary History:** 23198060 (Closed with \$1,000.00 civil penalty and 36 hours of continuing education); 201103061 (Pending formal litigation); 201103165 (Pending formal litigation); 201200130 (Pending formal litigation); 201103170 (Pending formal litigation).

**Reasoning and Recommendation:** There are currently four similar complaints against this same Respondent that are pending formal litigation, which is set to take place in January 2013. As such, Counsel recommends holding off on sending this case to a reviewer until such time as the other matters against Respondent are decided in the January formal hearing. Counsel recommends **Authorization for a formal hearing on these matters.**

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Ms. Point. The motion carried unopposed.

**8. 2012017011 There was no reviewer in this matter.**

This complaint was filed anonymously by email and alleged violations of the Appraisal Management Company law. Staff contacted the Complainant via email requesting clarification and/or proof/documentation of the allegations in July 2012. No response was received from the Complainant after the additional information was requested by this office.

**Licensing History** Licensed Appraisal Management Co. 7/1/2011-Present

**Disciplinary History** None

**Reasoning and Recommendation:** The Complainant has not provided sufficient information/evidence to effectively move forward with this complaint. This office contacted Complainant to request additional information, and the Complainant was unresponsive. As such, Counsel recommends **Closure** of this matter, due to insufficient evidence of a violation.

**Vote:** Mr. Walton made the motion to accept the recommendation and it was seconded by Mr. Green. The motion carried unopposed.

**9. 2012004791 There was no reviewer in this matter.**

**\*\*\*This matter is being RE-PRESENTED.**

This complaint was opened by the administrative staff for the Tennessee Real Estate Appraiser Commission after receiving a copy of an email correspondence between an appraisal company and Respondent, regarding several requests for appraisal orders. The company alleged unlicensed activity as an Appraisal Management Company on the part of Respondent. However, the company that originally submitted the information to TREAC did not provide an address for the Respondent.

Notice of the complaint was sent out to Respondent after the complaint was opened via the email address that this office had acquired through the brief email communication between the company and Respondent. The Respondent did not respond to the complaint in any way.

A previously authorized Consent Order was sent out to Respondent on October 3, 2012, consisting of a Five Hundred Dollar (\$500.00) civil penalty and Cease and Desist notification. That Consent Order was returned to this office as non-deliverable/unable to forward on or about October 29, 2012. Subsequently, Counsel contacted the company that originally submitted the information to TREAC via email to inquire as to whether it had a proper address, phone number, or any additional information regarding the Respondent or its location. The company did not provide Counsel with an address.

**Licensing History:** None/Unlicensed

**Disciplinary History:** None

**Reasoning and Recommendation:** Since this office has been unable to obtain further information from the company, this office is unable to achieve proper service for Respondent in this matter. Respondent is not registered as a corporation with the Secretary of State, and this office has no proper address or post office box for Respondent. The company that originally submitted the information to TREAC did not send the complaint on any official company letterhead and, the Respondent is not registered as a licensed Appraisal Management Company with the state of Tennessee. This office has no reason to believe that Respondent is still conducting the alleged unlicensed activity. Thus, Counsel recommends that this matter be **Closed and Flagged** at this time. If further complaints are filed that give us additional evidence of unlicensed activity on the part of this Respondent, this office will then re-open the matter at that time to address those allegations.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Mr. Green. The motion carried unopposed.

#### **10. 2012010641**

This complaint was filed by a consumer and alleged that Respondent over-valued approximately eight (8) acres of undeveloped land in the appraisal report.

The Respondent stated in his response letter that the property was appraised for an estate settlement with a retrospective date for IRS settlement and was communicated as a restricted use appraisal report. He indicated that the division of the property was not an intended use of this report, and the Complainant (brother of the client) was not identified as an intended user.

#### **REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The appraiser failed to accurately analyze the adjustments regarding the comparable sales in the appraisal report. Thus, the final value estimate is not supported by the sales used in the appraisal. [SR 1-4(a)].
- The appraiser's lack of adjustments to the five comparable sales used is not adequately explained in the appraisal report. [SR 2-2(b) (viii)].

**Licensing History:** State Certified General Real Estate Appraiser 12/22/1993-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the Respondent has failed to correctly analyze the sales data to arrive at a value conclusion for the property. The final value estimate is not supported by the sales used in the appraisal. Respondent has been licensed as a certified general appraiser for almost nineteen (19) years and has had no previous disciplinary action taken against him. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour "Site Valuation and Cost Approach" Course to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

#### **11. 2012014531**

This complaint was filed by a consumer and alleged that Respondent under-valued a log cabin property by communicating a misleading appraisal report. In addition, Complainant alleged Respondent did not give the Complainant a copy of the appraisal report.

The Respondent states that having very limited sales to work with due to reasons stated in her report, such as the subject county being so small, she was very clear, verbally and within the appraisal report, about how she based her analysis. Respondent states that she is familiar with her market, current trends, sales, etc. and continues to provide detailed reports in order to increase the level of understanding relayed to her clients. Respondent states she feels confident that she considered all factors associated with this property and provided Complainant with her opinion of value based on the most similar market data available and her experience as a professional within this market.

<b>License History:</b>	Registered Trainee	06/04/2003-09/14/2009
	Certified Residential	09/15/2009-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found no violations of the Uniform Standards of Professional Practice within the appraisal report, thus, Counsel recommends **Closure** of this matter with no formal action.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

## 12. 2012012681

This complaint was filed by a consumer and alleged that Respondent failed to verify contact information, used inappropriate comparable sales, and undervalued a residential property.

The Respondent states that the sales comparison approach was employed in this appraisal and that the sales that were utilized represented the best/most recent sales available of homes with similar sites and floor plans as the subject. Respondent indicates that the appraisal prepared was reasonable in light of the current market data. Sales employed were all nearby, nearly identical to the subject in size and had closed in the previous three months.

**Licensing History:** Certified Residential 12/31/1991-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that Respondent appraiser developed the sales comparison approach which was the appropriate appraisal method to value the property, and that the selection of comparable properties emphasizes similar age and type properties with similar location and physical characteristics. The cost and income approaches have not been developed and are not required to produce a credible value estimate. However, the reviewer also found that Respondent made some misstatements in the summary of sales comparison approach concerning the sites. For example, in the adjustment grid, Respondent indicates that the site size on all three comparable sales is 9,600 square feet. However, in the summary of sales comparison approach Respondent states that the site sizes are different but are felt to be equal in value. One of these statements is incorrect. In addition, the improvement section of the Respondent's appraisal report contains a statement describing updates and physical depreciation of the property. Since only the sales comparison approach is developed this statement does not apply and should not be included in the report. The property appraised is new construction and there would be no updates. Since the cost approach is not included the reference to physical depreciation is incorrect. This series of errors is a violation of SR 1-1(c), referring to rendering appraisal services in a careless or negligent manner.

Respondent has been licensed as a certified residential appraiser for over ten (10) years and has had no previous disciplinary action. Despite the errors, the reviewer found the appraisal to be credible, thus, Counsel recommends **Closure** of this matter with a **Letter of Warning** regarding the series of negligent errors found.

**Vote:** Mr. Walton made the motion to accept the recommendation and it was seconded by Ms. Point. The motion carried unopposed.

**13. 2011030681**

This complaint was filed by a concerned citizen and alleged that Respondent failed to verify comparable sale data, made adjustments inappropriately or negligently, failed to define the scope of work conducted in the appraisal report. Complainant alleged the errors in the report affected the value opinion in the appraisal for eminent domain purposes of a land acquisition of twelve (12) planned vacant lots.

The Respondent defended his comparable data selections and adjustments applied. He indicated that the value opinion was well supported and no violation of USPAP occurred.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The reporting option was not clearly presented in the report. [SR 2-2; SR 2-2 Comments: lines 641-648].
- The report does not utilize the proper definition of market value for the type of assignment. [SCOPE OF WORK RULE-Problem Identification; SR 2-2(b)(v)].
- The report does not provide adequate identifying information on the subject lots. [SR 1-2(c); SR 2-2(b)(iii)].
- The sales comparison approach is unsupported and not adequately completed. [SR 1-1(a)(b); 2-2(b)(viii)].
- The reconciliation is not appropriately completed. [SR 1-6(a); SR 2-1(b); SR 2-2(b)(viii)].

**Licensing History:** Certified General 1/31/1995-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that, overall, it does not appear that the appraisal report has been conveyed in an appropriate manner. In addition, the reviewer found that the report does not contain sufficient information to enable the intended users to understand and rely on the conclusions presented. The Respondent has been a certified general appraiser for over seventeen (17) years with no prior disciplinary history. Thus, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a thirty (30) hour course on General Appraiser Report Writing and Case Studies to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Ms. Point made a motion to close with a Letter of Warning Mr. Phillips seconded the motion. There was some discussion and then both the motion and the second were

withdrawn. Mr. Walton made a motion to defer this matter until legal could gather additional information on this complaint. Mr. Green seconded this motion. This passed unopposed to defer at this time.

**14. 2012010711**

This complaint was filed by a consumer and alleged that Respondent misreported the square footage, used inappropriate comparable sales, misreported property characteristics, and failed to adequately summarize the reconciliation of the value indicators.

The Respondent stated in his response that the square footage discrepancy was between fifteen (15) and sixteen (16) square feet and would not significantly affect the value indication. Respondent indicated that reporting the water as being electric was a typing error and that the upgrades of the property were considered and included in the appraisal report, but the UAD form was confusing for borrowers to understand.

**Licensing History:** Registered Trainee 2/11/2004-5/2/2007  
State Certified Residential 5/2/2007-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer did not find any violations of USPAP after a review of the appraisal report. The reviewer admits that there are a few minor discrepancies in the appraisal but nothing that amounts to an actual USPAP violation. Thus, Counsel recommends **Closure** of this matter with no action.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

**15. 2012012601**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by communicating a misleading appraisal report and misreported the square footage and used inappropriate comparable sales data.

The Respondent provided a lengthy response stating that the lowest level of the home is below grade and meets the definition of a basement by both local and national standards. Therefore, it is characterized as a basement and not a two and a half (2 ½) story home as suggested by the owner. The Respondent states that, according to Fannie Mae guidelines, the appraiser should report the basement or other partially below-grade areas separately and make appropriate adjustments for them. The Respondent states that he did measure the home properly, and the calculations have been checked and are correct. Respondent also states that the subject property is part of an overnight rental program, and this information was reported in the appraisal report as required. Respondent indicated that he analyzed the most current, reliable,

indicative data available and adhered to all necessary and applicable standards to prepare the appraisal for the subject property.

### **REVEIWER CONCLUSIONS**

The reviewer found that the neighborhood section of the appraisal report lacked sufficient information about the market area. The neighborhood is a high traffic, tourist driven resort area, but this was not reported by the Respondent. It was also found that the improvements section contained some conflicting statements. The report has the subject's attic marked "none" and "finished" and the foundation marked "crawl space" and "full basement", with no explanation given. The sales comparison approach had some inconsistent information and did not discuss any reconciliation that derived the indicated value. Prior sales of the subject property were not properly or accurately disclosed on the form. There were no lot sale documents or reconciliation in the report as support for the site value. The income approach was conflicting as to whether it was developed or not for a rental, income-producing property. Indications of several errors or copying of another report caused several confusing report issues. Data referenced material dated after the date of report indicated that copies and data were added to the workfile. Such conclusions constitute multiple violations of USPAP Standards 1, 2, and the Ethics Rule: Record Keeping section.

<b>Licensing History:</b>	Registered Trainee	7/21/1992-4/6/1997
	Certified Residential	4/7/1997-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found that the report was lacking in completeness and credibility. The many report errors contributed to the lack of report credibility. There appeared to be a lack of apparent relevant data. Appropriate appraisal methods and techniques were not developed by Respondent. Without the inclusion of the income approach data, the report is misleading. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty days of execution of the Consent Order and a thirty (30) hour course on Residential Sales Comparison and Income Approaches to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to accept the recommendation but added to the recommendation that the education specified cannot be used for continuing education by the appraiser (corrective education only) and it was seconded by Ms. Johnson. The motion carried unopposed.

**16. 2012004911 There was no reviewer in this matter.**

This complaint was initiated by the administrative staff for the Tennessee Real Estate Appraiser Commission in response to information provided by a representative of a bank for which Respondent performed an appraisal assignment while his credential/license was suspended. The Respondent was previously suspended for an eighteen (18) month period by final order in a formal proceeding. Subsequently, a request by Respondent to stay the final order was denied. No appeal was filed. The appraisal report in question includes the Respondent's name and signature on an appraisal of the property with an effective date that was during a time when Respondent's license/credential was suspended. Respondent remains suspended indefinitely because he failed to pay the assessed civil penalty and complete the requisite education per the Order.

An investigation of Respondent was conducted on or about October 19, 2012 by the TN Department of Commerce and Insurance. Such investigation resulted in affidavits by both Respondent and his father claiming that Respondent had no part in the subject appraisal that was conducted by his father. Instead, the secretary at the time was responsible for stamping Respondent's name to the appraisal document. Subsequent to the investigation, this office sent out further correspondence to Respondent and his father, asking for a response as to what steps were taken by Respondent to prevent the unauthorized use of his signature on appraisal reports by any employee of the appraisal company, after Respondent was suspended from the practice of real estate appraising by Final Order. A response was received by Respondent stating that when his license was suspended, he took another job, and when he left his office it was known by everyone in the office that his license had been suspended for a period of time and that he was no longer working for the appraisal service. However, Respondent also stated in his response that when he left the appraisal service, his password protected signature was left unprotected for a period of time in case any of the appraisals that he had completed before the suspension needed any additional "tweaking" for those clients whom Respondent had completed appraisal reports.

**Licensing History:** Certified Real Estate Appraiser 5/17/1993-8/13/2010  
Suspended 8/19/2010

**Disciplinary History:** (944960-Closed with Consent Order; 200314761-Closed with Letter of Warning; 200504309-Closed with Consent Order and civil penalty; 200901730-Suspended per final order 8/13/2010 indefinitely).

**Reasoning and Recommendation:** No evidence has been provided by Respondent to suggest that he took the proper steps to prevent the unauthorized use of his signature by employees during a time that he was suspended. Respondent admitted that his password protected signature was left unprotected for a period of time, in order to cover past appraisals. Failure to take the proper steps to ensure protection of your signature constitutes a violation of USPAP ETHICS RULE Management, which states, in pertinent part as follows:

***An appraiser must affix, or authorize the use of, his or her signature to certify recognition and acceptance of his or her USPAP responsibilities in an appraisal, appraisal review, or appraisal consulting assignment. An appraiser may authorize the use of his or her signature only on an assignment-by-assignment basis.***

***An appraiser must not affix the signature of another appraiser without his or her consent.***

**Comment: *An appraiser must exercise due care to prevent unauthorized use of his or her signature. An appraiser exercising such care is not responsible for unauthorized use of his or her signature.***

Thus, Counsel recommends the authorization of a Consent Order authorizing revocation of Respondent's Real Estate Appraiser certification to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Johnstone. The motion carried unopposed.

**17. 2012022981, 2012022591, 2012020561, 2012023031 - There was no reviewer in this matter.**

The first three complaints were opened against the AMC alleging that the Respondent failed to pay numerous appraisers' fees. Each complaint was filed by a different Complainant.

The fourth complaint was opened against the AMC by the administrative staff for the Tennessee Real Estate Appraiser Commission upon receipt of a Notice of Cancellation of a surety bond on or about October 5, 2012. Respondent has not sent proof of a current bond to this office.

Respondent filed a response stating that the AMC had started negotiations months ago to be acquired by another company, however, because of unintended delays and setbacks with this transaction; Respondent has fallen behind on payments. Respondent claims it does not have the necessary capital with which to pay the appraisers, but stated it would make every effort to pay the appraisers as they obtain funds.

<b>License History:</b>	Registered AMC	7/1/2011-7/31/2013
	Surety Bond expired	10/5/2012

**Disciplinary History:** (201202298-pending; 201202259-pending; 201202056-pending; 201202303-pending)

**Reasoning and Recommendation:** Counsel recommends the authorization of a Consent Order authorizing revocation of the AMC's registration, and to require proof of payment of all unpaid invoices in the above referenced complaints, along with a Ten Thousand Dollar (\$10,000) civil penalty to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

## **18. 2012001291**

This complaint was filed anonymously and alleged that the Respondent communicated a misleading and/or unsupported value opinion. The complaint included two reports on the same property completed by Respondent on September 15, 2010 and September 18, 2009.

The Respondent stated in his response that the subject property appraised consisted of vacant land that was planned to be developed with a condominium development. The developer had projected the construction of a club house and other amenities for this development, but the Respondent was never provided with any construction plans or details of the proposed club house or other amenities. Because of this any influence of amenities, such as the proposed club house, etc., was not included in his appraisals. Respondent stated the appraisal reflected the value assuming completion of the development and the value of the land assuming no development occurred. Respondent states that his appraisals are accurate and indicative of market value, whether the land was developed with condo pads or remained vacant and undeveloped. Values for either circumstance were included in the appraisal reports.

### **REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The site characteristics and improvements were not properly identified in the September 15, 2010 report or the September 18, 2009 report. [SR 1-1(b); SR 1-2e(i), Comment: lines 518-520 and lines 522-524; USPAP 2008-2009, pages U-16 & U-17; USPAP 2010-2011, pages U-18 & U-19; SR 2-1(b); SR 2-2(b)(iii); SR 2-3(b)(iii)].
- The sales comparison approach was not properly supported, and there was no clear analysis or conclusion presented in the September 15, 2010 report or the September 18, 2009 report. [SR 1-1(a); SR 1-4(a); SR 2-1(b); SR 2-2(b)(viii); USPAP 2008-2009; USPAP 2010-2011].
- The discounted cash flow analysis present in the September 15, 2010 report has mathematical errors and does not provide sufficient information to support the opinions and conclusions presented. [SR 1-1(a)(b)(c); SR 1-4(c)(iii)(iv); SR 2-1(b); SR 2-2(b)(viii); USPAP 2010-2011].
- The discounted cash flow analysis present in the September 18, 2009 report does not provide sufficient information to support the opinions and conclusions

presented. [SR 1-1(a); SR 1-4(c)(iii)(iv); SR 2-1(b); SR 2-2(b)(viii); USPAP 2008-2009].

- The September 15, 2010 report did not have a final reconciliation addressing the quality or quantity of data in arriving at the final value. [Scope of Work Rule; SR 1-6(a) (b); SR 2-2(b)(viii); USPAP 2010-2011].
- The quality and quantity of data available and analyzed, and the applicability and suitability of the approaches used to arrive at the value conclusions had not been adequately reconciled in the September 18, 2009 report. [Scope of Work Rule; SR 1-6(a) (b); SR 2-2(b)(viii); USPAP 2008-2009].
- Previous work experience (2009 & 2008) was not disclosed in the certification of the 2010 report. [Ethics Rule-Conduct; USPAP 2010-2011].

**Licensing History:** Certified General 12/31/1991-Present

**Disciplinary History:** (937743-Closed with a \$250.00 civil penalty; 941873-Closed; 942975-Closed; 945164-Closed).

**Reasoning and Recommendation:** The reviewer found that the 2010 and 2009 reports do not provide results in an appropriate manner, do not contain sufficient information to enable the client(s) and any intended user(s) who receive or rely on these reports to understand them properly. The reviewer also found a violation of an ethics standard. Respondent has been the subject of disciplinary action by the Commission in the past. Thus, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be satisfied within thirty days of the execution of the Consent Order, along with a thirty (30) hour course on General Appraiser Sales Comparison Approach and a thirty (30) hour course on General Appraiser Income Approach to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Walton made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

## **19. 2011030371**

This complaint was filed by a mortgage lender and alleged that Respondent used comparable sales that were not exposed through the MLS, were outside the subject neighborhood, and were of higher quality than the subject property. The complaint alleged that the property was over-valued in the sales and cost approaches.

The Respondent sent a written response stating that the complaint was filed approximately five and one-half (5 ½) years since the original appraisal and that a state licensed or certified estate appraiser is not required to retain records after five (5) years from the date that the appraiser submits the appraisal to the client. Thus, since no

proceeding had been initiated before the five-year period had expired, and Respondent no longer has the work file. Respondent did state that the comparable sales in the report were shown on MLS and were all similar to the subject property, required repairs to bring to market value, and were “updated” in some aspect similar to the subject property.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The appraiser used sales in a superior location which represents a very different market area when compared to the subject’s location. No adjustment was made for location. [SR 1-4(a); 2-2(b)(viii)].
- The site value is not supported. [SR 1-4(b); 2-2(b)(viii)].
- The appraisal report indicates that there have been a “few foreclosures” in the immediate area. In the subject’s area, ten (10) of the most recent twenty (20) sales were foreclosure sales. [SR 1-1(b)(c)].

**License History:** Registered Trainee 5/3/1999-6/18/2011  
Certified Residential 1/3/2001-Present

**Disciplinary History:** (2009000153, 200922154, 200900155, 200900156, 200900157, 200900158, 200900229, and 200900313-All closed by Agreed Final Order imposing a \$3,000.00 civil penalty and 45 hours of corrective education; 201100411-Closed with Consent Order and one year probation).

**Reasoning and Recommendation:** For reasons unknown, the Complainant did not first submit the complaint until five and one-half (5 ½) years after receiving the appraisal report from Respondent. This delay in sending the complaint presents an impediment not only to the Respondent, but also to the State. By law, the Respondent is only required to maintain his workfile for five (5) years, and he is impeded in defending against the complaint because he no longer had his workfile when the complaint was received. Moreover, the delay is an impediment to the State because it is now much more difficult to collect relevant evidence.

Much has happened in the more than five (5) years since the subject appraisal was completed. The Commission has already entered into an Agreed Order with this Respondent relative to similar complaints on appraisals performed during a time period after the date of the subject appraisal. Those complaints included allegations that were the same or similar to the allegations in the subject complaint. All of the prior complaints were resolved by one Agreed Order, which imposed a probationary period, payment of a civil penalty, payment of costs and extensive hours of continuing education. The Respondent has completed all terms of the Agreed Order. Had this complaint been received prior to the execution of the Agreed Order, the complaint would have been included in and resolved by the Agreed Order. Respondent has had no complaints filed against him regarding appraisals performed after entering in the Agreed Order.

Because this matter was received by the Administrative office more than five (5) years after the appraisal was prepared, because the Respondent agreed to and completed extensive continuing education, paid civil penalties and paid costs for the same and similar allegations since the time when the subject appraisal was prepared, and because this matter would have been included in and resolved by the prior Agreed Order had it been received earlier, it is Counsel's recommendation that this complaint be **Closed with no further action**.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

## **20. 2012016931**

This complaint was filed by a consumer/homeowner and alleged that Respondent communicated an appraisal that contained numerous errors that caused the appraisal to be misleading.

The Respondent stated in his response that he received three addendum requests from the management company and that he promptly responded to each addendum of the appraisal. Any additional issues that the homeowner was disputing may have been presented to her lender, but were not presented to Respondent until notice of the complaint was received by him. Respondent states that the issues that the homeowner has presented are descriptive in nature and have not adversely impacted her property or the opinion of value.

### **REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The appraisal report fails to summarize and support the following opinions and conclusions:
  1. Opinion of effective age and remaining economic life.
  2. Opinion of external obsolescence regarding location near railroad tracks
  3. Opinion of site value
  4. Opinion of adjustments in the sales comparison approach
  5. Opinion of exposure time [SR 2-2(b) (viii)].
- The appraisal report fails to summarize the opinion of the highest and best use, both as-improved and as-vacant. [SR 2-2(b) (ix)].
- The appraisal report fails to state whether prior services have been performed on the subject property within the previous three (3) years in the report certification. [SR 2-3 (line 877)].
- The appraisal has sufficient violations so as to be considered as having been performed in a careless and negligent manner. [SR 1-1(c)].
- The workfile submitted to the review appraiser did not contain a true copy of the original appraisal report submitted to the client. It only contained the revised copy. It also did not contain any data regarding Listing Comps 4 and 5 nor any

data to support the site value opinion. [RECORD KEEPING RULE (line 294 and line 299)].

**License History:** Registered Trainee 7/27/2006-10/27/2008  
Certified Residential 10/28/2008-Present

**Disciplinary History:** (200705740-Dismissed).

**Reasoning and Recommendation:** The reviewer found several violations of USPAP in the subject appraisal report, along with multiple additional mistakes, such as mistakes in the sales comparison grid, mistakes in the comments to the sales comparison approach, and lack of documentation to support the site value opinion in the workfile. The reviewer suggests that such violations and mistakes could cause the appraisal to be considered as having been performed in a negligent manner. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty days of execution of the Consent Order, along with a fifteen (15) hour course on Residential Report Writing and a fifteen (15) hour National USPAP course to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

**21. 2012025311 There was no reviewer in this matter.**

This complaint was opened by the Administrative staff for the Tennessee Real Estate Appraiser Commission for failure to submit biannual certification as required by the laws and rules of TREAC.

On December 3, 2012, Respondent submitted the appropriate biannual certification as requested by this office.

**License History:** Registered Appraisal Management Co. 7/11/2011-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** Respondent submitted the appropriate biannual certification forms to this office as requested; thus, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Ms. Point made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

**22. 2012025431                    There was no reviewer in this matter.**

This complaint was opened by the Administrative staff for the Tennessee Real Estate Appraiser Commission for failure to submit biannual certification as required by the laws and rules of TREAC.

On November 29, 2012, Respondent submitted the appropriate biannual certification as requested by this office.

**License History:**                    Registered Appraisal Management Co. 10/27/2011-Present

**Disciplinary History:**                    None.

**Reasoning and Recommendation:** Respondent submitted the appropriate biannual certification forms to this office as requested; thus, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Phipps made the motion to accept the recommendation and it was seconded by Mr. Johnstone. The motion carried unopposed.

**NEW BUSINESS**

---

**Director's Report**

Ms. Avers gave a director's report to the Commission, which included staffing updates, discussion of the needed legislative changes, and newsletter sent out this month for the Real Estate Appraiser Commission. She updated the members on the budget information and an overview of number of complaints received in the calendar year. Finally, she updated the members on the numbers of licensees, courses and active temporary practice permits.

**Discussion of the 2015 AQB Requirements**

Deletion of the Segmented Approach to implementation (Rule Change)

Fingerprinting/Background Checks (Law and Rule Changes)

- Need to determine if background checks will be run on initial applicants only or on all appraisers upon renewal. In addition to all applicants for new credentials, state appraiser regulatory agencies are strongly encouraged (by AQB) to perform background checks on existing credential holders as well.

**Vote:** Mr. Johnstone made a motion that the Commission recommend to legislature that the minimum AQB criteria be implemented, meaning only initial and upgrade applications, and the implementation date of the fingerprinting/background checks become effective in the law by July 1, 2014 to allow time for implementation processing

before federal requirements. Mr. Green seconded the motion. The motion carried unopposed.

**Trainee / Supervisor Course – hours and content requirements (Rule Change)**

- One of the changes adopted by the AQB requires that both Supervisory Appraisers and Trainee Appraisers complete a course that, at a minimum, complies with the specifications for course content established by the AQB. The course must be completed by the Trainee Appraiser prior to obtaining a Trainee Appraiser credential, and completed by a Supervisory Appraiser prior to supervising a Trainee Appraiser.

Recommend the hours be at least 7 hours and the content requirements to meet those described in AQB guide note or interpretation. Please consider whether a TN law/rule section of the course should be added.

**Vote:** Mr. Johnstone made a motion that the Commission require this course to be seven (7) hours and the content requirements as described by the AQB guide note or interpretation. Mr. Walton seconded the motion. The motion carried unopposed.

Experience – Practicum courses and college courses for experience (possible future rule changes)

Professional Track  
Practicum Courses

Examination Requirements – experience before exam (Rule Change)

Minimum College Education Requirements (Rule Change)

<b>COLLEGE LEVEL EDUCATION REQUIREMENT CHANGES</b>		
<b>CLASSIFICATION</b>	<b>CURRENT REQUIREMENTS</b>	<b>1/1/15 REQUIREMENTS</b>
<b>Trainee</b>	None	None
<b>Licensed Residential Appraiser</b>	None	30 semester credit hours of college-level education from an accredited college, junior college, community college, or university OR an Associate’s degree or higher (in any field).
<b>Certified Residential Appraiser</b>	21 semester credit hours in specified collegiate subject matter courses from an accredited college or university OR an Associate’s degree or higher.	Bachelor’s degree or higher (in any field) from an accredited college or university.

<b>Certified General Appraiser</b>	30 semester credit hours in specific Collegiate subject matter courses from an accredited college or university OR a Bachelor's degree or higher.	Bachelor's degree or higher (in any field) from an accredited college or university.
------------------------------------	---	--

Reciprocity Discussion

Dodd-Frank Requirements  
 Reciprocity and continuing education

Effective July 1, 2013 the ASC will begin reviewing State Programs for Compliance with the following three requirements.

1. Provisions of the Dodd-Frank Act require States to have in place a policy for issuing a reciprocal certification or license to an appraiser from another State under specific conditions. A federally regulated financial institution may not engage a certified or licensed appraiser to perform an appraisal of property for a federally related transaction unless the State wherein the appraiser is credentialed has such a reciprocity policy in place. The State's reciprocity policy must meet the following conditions:
  - a. The appraiser licensing and certification program of the other State is in compliance with the provisions of FIRREA Title XI; and
  - b. The appraiser holds a valid certification from a State with requirements for certification or licensing that meet or exceed the certification and licensure standards established by the State where an individual seeks reciprocity.
2. Certification and Licensing Requirements for State licensed appraisers must meet AQB minimum qualification criteria.
3. Certification and Licensing Requirements for "trainee appraiser" and "Supervisory appraiser" must meet the minimum AQB criteria.

It is the opinion of the Executive Director that Tennessee currently meets or exceeds all three of these provisions which are anticipated to be reviewed by the ASC on or after July of 2013; however, the changes for 2015 including continuing education, fingerprint/background checks, and supervisor trainee courses are considerations which should be address in reciprocity rule making planning.

Reciprocity policy currently does not incorporate the "trainee" level applicants, but may need to be considered in the future since they will be included on the national registry and be required to meet minimum AQB requirements. Many States allow 100% online qualifying education, which currently does not meet Tennessee requirements.

Current laws, rules, and policies applicable to "reciprocity" do not specifically address renewal requirements for out of State licensees and do not contain specific language regarding the period of time that a person may not reapply after expiration. Many States have different continuing education requirements (i.e. allowing 100% on-line) and some

States randomly audit continuing education and do not require submission by all licensees. It is the opinion of the director that the intent of the Dodd-Frank Act is for States to acknowledge the credentialing authority of the home state of licensees. However, the renewal requirements are not specified in the law and this would seem to create a loophole from compliance continuing education because of the differing requirements and lack of exclusion to just reapply when it expires. If an out of state licensee hasn't completed their continuing education in their home state and does not submit it to Tennessee to meet renewal requirements, they can just let the credential expire, then reapply. Other States may allow this same individual to renew based on the new license in Tennessee.

In 2015, at a minimum all initial trainee applicants and applicants requesting to upgrade a credential to licensure or certification will be required to submit fingerprints and a federal background check as part of the application process. However, if the law doesn't require current credential holders to submit fingerprints and receive a background check upon renewal, then it is the opinion of the Director that we cannot make it a requirement that out of state credential holders (reciprocal) applicants submit to the background check requirements. This was discussed at length with the ASC staff at the AARO conference in Washington, D.C.

**62-39-106. State law not to be more stringent than federal law.**

*No state law regulating real estate appraisers shall be more stringent than any federal law regulating real estate appraisers.*

**62-39-322. Nonresident licensees and certificate holders -- Reciprocity -- Fees.**

*(a) If, in the determination of the commission, a state is deemed to have meaningful requirements for licensure and certification and if that state grants reciprocity to Tennessee licensees and certificate holders, then the commission shall grant reciprocal rights to licensees and certificate holders who are in good standing in that state.*

*(b) The commission shall set reasonable fees for the practice of appraisal in this state by licensees and certificate holders of other states that have been granted reciprocity.*

**62-39-325. Renewal of license or certificate -- Rules -- Legislative intent.**

*(a) In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the commission shall promulgate rules to ensure that each individual renewing the individual's license or certificate has a working knowledge of current real estate appraisal theories, practices and techniques sufficient to enable the individual to provide competent real estate appraisal services to the members of the public with whom the individual deals in a professional relationship.*

*(b) It is the intent of this chapter to meet the minimum criteria for certification established from time to time by the appraiser qualifications board of the appraisal*

foundation, and the commission may recommend changes to this section to meet those criteria.

#### **1255-6-.01 RECIPROCAL AGREEMENTS.**

*(1) If, in the determination of the Commission, a state or territory of the United States is deemed to have established meaningful requirements for the licensure and certification of real estate appraisers, and that state grants reciprocity to Tennessee licensees and certificate holders, then the Commission shall grant reciprocal rights to real estate appraiser licensees and certificate holders which are in good standing in that state.*

*(2) If, in the determination of the Commission, the requirements in paragraph (1) have been met, then upon receipt of a nonrefundable application fee of one hundred twenty-five dollars (\$125.00), a license or certificate issuance fee of three hundred fifty dollars (\$350.00) and a federal registry fee of eighty dollars (\$80.00), the Commission shall grant to an applicant a reciprocal license or certificate to appraise real estate in the State of Tennessee.*

*(3) If a licensee or certificate holder's out-of-state real estate appraiser license or certificate has been revoked, suspended, denied renewal or restricted, then the Commission may revoke, suspend, refuse to renew or restrict the licensee's or certificate holder's State of Tennessee real estate appraiser license or certificate.*

#### **Commission Policies 7 & 8**

*7. Applicants, which are current credential holders in good standing within another jurisdiction, may obtain reciprocal credentials, temporary practice permits, renewals of existing credentials, and an equivalent credential in Tennessee on or after January 1, 2008 without having to meet the 2008 AQB criteria. If an appraiser holds a valid appraiser credential supported by an AQB approved examination, the appraiser will be deemed to be in full compliance with the 2008 criteria. Evidence of AQB compliance must be verified either through the National Registry, maintained by the Appraisal Subcommittee of Congress, or by a "Letter of Good Standing" from the credentialing jurisdiction.*

*8. Licensees that gained licensure or certification by reciprocity, but have subsequently moved to Tennessee and establish residency shall meet all Tennessee required education, experience and examination requirements if they apply for upgrade of licensure/certification.*

AMC Discussion (Law and Rule Changes)  
    Fix the biannual to biennial language  
    Sanction Guidelines (OR)  
    Portals

On October 13, 2012 the AMC Representatives job function breakout group met to discuss issues relevant to the regulation of Appraisal Management Companies (AMC's). Participants were encouraged to discuss AMC Registration/Licensing challenges and strengths and identifying the differences between portals and an AMC. The definition

of what an AMC is varies greatly between the States, so discussion ran primarily off the Dodd-Frank definition which includes in part:

Oversees a network or panel of appraisers of more than 15 state or 25 national;

- a. Recruit, select, or retain appraisers
- b. "Contract" with appraiser assignments

A primary point in this definition is the word "oversees", whether it is the AMC's panel or if it is the banks panel. Also, included in the discussion was relevance of the word "retain" in the definition and that portals don't tend to maintain the relationship with the appraiser. Reviewing the service agreement was discussed to determine if the contract is to subscribe to the service or to get appraisal work.

Inconsistencies between federal and various state laws were discussed. Inconsistencies between various state laws and rules and the application and renewal requirements were also discussed. The resulting outcome was to encourage proactive involvement in the law and rule making processes by AMC groups and cooperative efforts with AARO.

USPAP Discussion (Request by Chairman Hall)

ASB Exposure Draft release November 30, 2012

Record Keeping Requirements

Relevant Laws, USPAP, and USPAP FAQ's:

On-Line Qualifying and Continuing Education

The denial of online education for qualifying education and the limit on continuing education may be interpreted to be "more stringent" than the federal law regulating real estate appraisers (see T.C.A. 62-39-106). Federal law requires licensed and certified appraisers to meet minimum AQB real property appraiser criteria requirements. Reciprocal licensees are not held to the same renewal requirements as resident appraisers.

CFPB Update:

The Federal financial institution regulators and the Bureau of Consumer Financial Protection will jointly promulgate rules setting forth the minimum requirements to be applied by the States. The minimal timeline set forth in the Dodd-Frank Act indicates that those rules may be promulgated within 18 months of July 21, 2011. After the rules are in final form, States have 36 months to implement the minimum requirements established by the rules. CFPB rules are due January 21, 2013; States to implement all requirements by January 21, 2016. The Bureau, jointly with Federal prudential regulators and other Federal agencies, is in the process of developing a proposal to implement Dodd-Frank Act requirements concerning appraisals for higher-risk mortgages, appraisal management companies, and automated valuation models, pursuant to TILA section 129H as established by DFA section 1471, 15 U.S.C. 1639h, and sections 1124 and 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) as established by Dodd-Frank Act sections 1473(f), 12 U.S.C. 3353, and 1473(q), 12 U.S.C. 3354, respectively. In addition, the Bureau is

developing rules to implement section 701(e) of the Equal Credit Opportunity Act (ECOA), as amended by DFA section 1474, to require that creditors provide applicants with a free copy of written appraisals and valuations developed in connection with applications for loans secured by a first lien on a dwelling. [15 U.S.C. 1691(e)]

The appropriate agency to receive concerns about “customary and reasonable fees” of a creditor's compliance with the Truth in Lending Act (TILA), including the requirement for the creditor or the creditor's agent (includes AMCs) to pay an appraiser a customary and reasonable fee, is the agency that enforces TILA with respect to the creditor. For a Federally insured credit union, the National Credit Union Administration is the appropriate agency. For insured depository institutions of more than \$10 billion and their affiliates, the Consumer Financial Protection Bureau (CFPB) is the appropriate agency. For insured depository institutions of \$10 billion or less, there are two websites to find the federal regulator for a creditor:

Federal Reserve System - National Information Center website:

<http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx>

FDIC website at the "Bank Find" webpage:

[http://www2.fdic.gov/idasp/main\\_bankfind.asp](http://www2.fdic.gov/idasp/main_bankfind.asp)

For other non-depository institutions, the appropriate agency to receive the complaint is the CFPB or the Federal Trade Commission. Questions regarding the appropriate interpretation of the Truth in Lending Act, including those on customary and reasonable fees, should be directed to the Consumer Financial Protection Bureau, Office of Research, Markets and Regulation.

Director Recommendation:

Develop work groups between the Commission members to accomplish the many goals of the Commission to keep up with necessary changes to regulation. The board chair shall board members to accomplish the below described missions.

#### Work Group Missions

##### Education (Dr. Baryla)

1. Review, language, and recommend CE & QE Criteria for 2015 to meet AQB minimum
  - a. 1255-2
  - b. 1255-4
2. Network/outreach for new education member for 2013 succession
3. Develop education review SOP

##### Application and Experience (Mr. Green)

1. Develop Standardized compliance review form for experience review.
2. Review, language, and recommend changes for application and experience review.

- a. 1255-1
- b. 1255-3
- 3. Review Standards of Practice Rule (1255-05) and recommend any needed updates
- 4. Review Inactive Status Rule (1255-07) and recommend any needed updates
- 5. Review all applications on TREAC website for ease of use, consistency with regulations, and recommend improvements

Publications and Public Outreach (Ms. Point and Ms. Johnson)

- 1. Write Newsletter articles on topics relevant to regulation of appraisers and AMC's. The goal should be a quarterly newsletter developed by the Commission members with the assistance of TREAC staff
- 2. Develop and maintain outreach to licensees for proactive regulation information.
- 3. Keep Commission informed with monthly reports on the activities of the professional organizations and schedule times on the agenda for these groups to attend TREAC meetings.

Legislation (Mr. Walton & Mr. Johnstone)

- 1. Review and update all laws under the Real Estate Appraiser and AMC (62-39)
- 2. Work with professional groups to move forward on AQB required background check and fingerprint law requirements
- 3. Work with professional groups to move forward on reciprocity requirements (Dodd-Frank)
  - a. Review Reciprocity Rule 1255-06
- 4. Fix biannual to biennial language in AMC part of law

AMC (Mr. Covington)

- 1. Review AMC Rules 1255-08
- 2. Assist staff in the development of forms consistent with other States
- 3. Monitor CFPB Rule development for AMC and report to TREAC
- 4. Monitor ASC National AMC Registry development progress and report to TREAC

Uniforms Standards of Professional Appraisal Practice (USPAP) (Mr. Phillips)

- 1. Review Standards of Practice Rule (1255-05) and recommend any needed updates
- 2. Write response letters to ASB on concerns and ideas relevant to exposure drafts and regulatory enforcement of USPAP

.....

Being no further business, the meeting was adjourned at 2:00 p.m.