



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

September 16th, 2013
Minutes
First Floor Conference Room (1-A)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on September 16th, 2013 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Green called the meeting to order at 9:08 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT

Michael Green
Norman Hall
Rosemarie Johnson
Nancy Point
Dr. Edward A. Baryla
Eric Collinsworth
Gary Standifer
Timothy Walton

COMMISSION MEMBERS ABSENT

Mark Johnstone

STAFF MEMBERS PRESENT

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

ADOPT AGENDA

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

Chairman Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on August 28th, 2013.

MINUTES

The July 8th, 2013 minutes were reviewed. Ms. Point made the motion to accept the minutes as written. It was seconded by Mr. Hall. The motion carried unopposed.

APPROVAL OF 2014 CALENDAR

Ms. Avers presented the dates on which the Commission would meet in 2014. There being no conflicts as observed by the Commission members, Dr. Baryla made a motion to accept the calendar as presented. The motion was seconded by Mr. Hall. The motion carried unopposed.

SEPTEMBER 2013 - EDUCATION COMMITTEE REPORT

Dr. Baryla reviewed the submissions for course approvals and read them into the record, as below:

Course Provider	Course Number	Course Name	Instructors	Hours Requested by Provider	Type	Rec.
ASFMRA	1677	ASFMRA 84 th Annual Convention – Day 1	Panel: Eric Ehn, Earnest Earon, Chris Larson, Tom Millhoff, Dorothy Bell, George Baird, Justin Bierschwale, Reid Thompson, JoAnn Wall, Trey Hill, Dan Sumner & Robert Farley	6	CE	For
ASFMRA	1678	ASFMRA 84 th Annual Convention – Day 2	KC Conway, David Kohl	3	CE	For
ASFMRA	1679	Rapid Fire Case Studies 2013	Panel: Greg House, Larry Saucer, Mark Williams, Dick Gilmore, Dave GaNun & Jeff Berg	6	CE	For
Appraisal Institute (Atlanta)	1680	Evaluating Commercial Construction	James Canastero	14	CE	For
Appraisal Institute (Atlanta)	1681	Evaluating Residential Construction	James Canastero	7	CE	For
Northern Michigan University	1682	Residential Design Module I: What makes a House Good	Dawn Molitor Gennrich, Richard Heyn	2	CE	For
Northern Michigan University	1683	Residential Design Module II: Architectural Structure and Style	Dawn Molitor Gennrich, Richard Heyn	2	CE	For
Northern Michigan University	1684	Residential Design Module III: Floor Plan Analysis	Dawn Molitor Gennrich, Richard Heyn	3	CE	For
Appraisal Institute	1685	Litigation Appraising for Residential Appraisers	Sandra Adomatis	4	CE	For
Appraisal Institute	1686	Review Theory - Residential	Craig Harrington	Class: 15 Exam: 2	CE	For
Appraisal Institute	1687	Review Theory - General	Stephanie Coleman	Class: 30 Exam: 3	CE	For
Appraisal Institute	1688	International Valuation Standards Overview	Stephen Roach	Class: 7 Exam: 1	CE	For
NAIFA	1690	2013 NAIFA Conference - Wednesday	P. Foster, M. Stockton, J. Bradford, J. Jacobs	7	CE	For
NAIFA	1691	2013 NAIFA Conference - Thursday	C. McEntire, J. Jones, D.L. Pollock, J. Torvi, B. Shea, J. Marrazzo, T. Munizzo	7	CE	For

Individual Course Approval Requests

Licensee	Course Provider	Course Name	Hours	Type	Rec.
Nancy W. Point (CG 119)	Virginia Association of Realtors	USPAP 7 Hour Update	7	CE	For
Doyle R. Monday (CG 393)	Institute of Professionals in Taxation & American Bar Association	Advanced Property Tax Seminar	13	CE	For
Michael T. Orman (CG 192)	Assoc. of Appraiser Regulatory Officials and The Appraisal Foundation	Appraiser Regulatory Agency Investigator Training Level 2	17	CE	For

University Degree Program Approval Requests

University	Degree Program / Title	Hours	Type	Rec.
Virginia Commonwealth University	*Bachelor of Science Real Estate Degree (BS)	Trainee: 60 Licensed : 135 Certified Residential : 170 Certified General: 255 (*Deficiencies below)	QE	For
Virginia Commonwealth University	*Master of Science Real Estate Degree (MS)	Trainee: 60 Licensed : 135 Certified Residential : 170 Certified General: 260 (*Deficiencies below)	QE	For

***DEFICIENCIES: Bachelor of Science Real Estate Degree (BS)**

APPROVAL PERIOD: May 2, 2013 – May 2, 2016

Real Property Appraiser Qualification Criteria Credential	Hours Approved	Deficiencies
Trainee	60 Hours	15-Hour National USPAP Course
Licensed Appraiser	135 Hours	15-Hour National USPAP Course
Certified Residential	170 Hours	15-Hour National USPAP Course -and- 15 Hours of Advanced Residential Applications & Case Studies
Certified General	255 Hours	15-Hour National USPAP Course -and- 15 Hours of General Appraiser Sales Comparison -and- 15 Hours of General Appraiser Site Valuation & Cost Approach

***DEFICIENCIES: Master of Science Real Estate Degree (MS)**

APPROVAL PERIOD: May 2, 2013 – May 2, 2016

Real Property Appraiser Qualification Criteria Credential	Hours Approved	Deficiencies
Trainee	60 Hours	15-Hour National USPAP Course
Licensed Appraiser	135 Hours	15-Hour National USPAP Course
Certified Residential	170 Hours	15-Hour National USPAP Course -and- 15 Hours of Advanced Residential Applications & Case Studies
Certified General	260 Hours	15-Hour National USPAP Course -and- 15 Hours of General Appraiser Sales Comparison -and- 15 Hours of General Appraiser Site Valuation & Cost Approach

Mr. Hall requested a short recess, informing the Board that he had to leave the meeting due to a personal matter. Seeing no problems as to quorum, Chairman Green continued the meeting after a short break.

Ms. Point then made the motion to accept the education report recommendations. This was seconded by Ms. Johnson. The motion carried unopposed.

Chairman Green then welcomed new Commission members, Eric Collinsworth and Gary Standifer.

FORMAL HEARING

The Commission held a formal hearing in the case of AVS (Appraisal Valuation Services), before Judge Mattielyn Williams, attended by court reporter Kathy Elmore. The other attendees were the Appraiser Commission Board members still present and staff, as mentioned in the beginning of the minutes.

Mr. Walton joined the meeting after the lunch break.

REPORT OF EXPERIENCE INTERVIEWS

Cathy Hall made an application to upgrade from a registered trainee to a State Licensed Real Estate Appraiser. Ms. Point was the reviewer and made the motion to approve her experience request. Mr. Walton seconded the motion. The motion carried unopposed.

Pamela H. Mooneyham made an application to upgrade from a registered trainee to a Certified Residential Real Estate Appraiser. Mr. Hall and Mr. Collinsworth were the reviewers. Mr. Collinsworth made the motion to have Ms. Mooneyham remain as a trainee and turn in three additional appraisal reports with an effective date after September 16th, 2013. Ms. Johnson seconded the motion. The motion carried unopposed.

Andrew C. Renfro made an application to upgrade from a registered trainee to a Certified General Real Estate Appraiser. Since Chairman Green was the reviewer, he handed the meeting over to Ms. Johnson to conduct the motion and voting process. Chairman Green made the motion to approve his experience request. Mr. Walton seconded the motion. The motion carried unopposed.

Thomas W. Hetrick made an application to upgrade from a State Licensed Real Estate Appraiser to Certified Residential Real Estate Appraiser. Ms. Point was the reviewer and made the motion to approve his experience request. Dr. Baryla seconded the motion. The motion carried unopposed.

Charles M. Conroy made an application to upgrade from a State Licensed Real Estate Appraiser to a Certified General Real Estate Appraiser. Since Chairman Green was the reviewer, he handed the meeting over to Ms. Johnson to conduct the motion and voting process. Chairman Green made the motion to approve his experience request. Dr. Baryla seconded the motion. The motion carried unopposed.

Pamela D. Shown made an application to upgrade from a registered trainee to a Certified Residential Real Estate Appraiser. Mr. Collinsworth was the reviewer and made the motion to approve her experience request. Dr. Baryla seconded the motion. The motion carried unopposed.

Richard Fowler made an application to upgrade from a registered trainee to a Certified General Real Estate Appraiser. Since Chairman Green was the reviewer, he handed the meeting over to Ms. Johnson to conduct the motion and voting process. Chairman Green made the motion that Mr. Fowler turn in two more appraisal reports, containing a Highest and Best Use Analysis, Income and Sales Approach Comparison. Mr. Walton seconded the motion. The motion carried unopposed.

Odus W. Smith III made an application to upgrade from a registered trainee to a Licensed Appraiser. Mr. Walton was the reviewer and made the motion that Mr. Smith turn in two additional appraisal reports with an effective date after September 16th, 2013. Dr. Baryla seconded the motion. The motion carried unopposed.

APPLICATIONS REVIEWS – Character Questions

Ms. Avers presented two cases as follows:

1. Application Review - Reliable AMC & Mr. J. Kevin Stitt

Reliable Appraisal Management, LLC, submitted an application to become a registered appraisal management company on May 24, 2013. J. Kevin Stitt was identified as the controlling person for this company, and he checked “Yes” to character information question 1, which reads, “Have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere? This would include a consent order, agreed order, final order, suspension, revocation, or voluntary surrender or a license or certificate pursuant to a disciplinary proceeding.” His supplemental information revealed that several settlement agreements and consent orders had been entered into between Gateway Mortgage Group, LLC and governing regulatory bodies for several different jurisdictions as summarized below. It should be noted that Mr. Stitt, the controlling person for Reliable Appraisal Management, LLC is also the owner of Gateway Mortgage Group, LLC.

- 1) State of Nebraska: Mortgage Banker License issued on June 27, 2005; Consent Order dated August 10, 2006, assessing fines and costs arising from charges that (a) Gateway failed to provide written notification of the addition of a branch office, and (b) Gateway failed to provide written notification of its use and adoption of a trade name for a branch office. A second Consent Order dated January 6, 2009, assessing fines and costs arising from the charges that Gateway’s license was expired for a period of about seven (7) months before renewal, and Gateway acted as a mortgage banker on three loans during the time the license was expired.
Corrective action was taken by Gateway, and it currently holds a valid license and is conducting business in Nebraska.
- 2) State of Illinois: Residential Mortgage License; Consent Order dated June 3, 2009, assessing a fine and placing Gateway on probation from June 1, 2009 to January 1, 2010, arising from charges that a former employee loan originator engaged in a mortgage fraud scheme at a branch office. Corrective action was taken by Gateway, and it currently holds a valid license and is conducting business in Illinois.
- 3) State of Georgia: Mortgage Lender License; Consent Order dated November 23, 2009, assessing a contribution to the State Regulatory Registry and providing for the voluntary surrender of Gateway’s license as of August 26, 2009 and also prohibiting Manager Kevin Stitt and any affiliate of Gateway from applying for a mortgage broker or lender’s license or engaging in the mortgage broker or lender business in the state of Georgia for a period of 5 years. This arose from charges of violations of the Georgia Residential Mortgage Act of making false statements and misrepresentations of material facts to lenders, failing to maintain a mortgage loan transaction journal, etc.
- 4) State of North Carolina: Mortgage Lender License issued May 4, 2006; Consent Order dated September 13, 2007, assessing costs and a civil penalty, arising from charges that mortgage applications were accepted by unlicensed loan officers, a mortgage loan

contained fees and charges in excess of statutory limits, etc. Corrective action was taken by Gateway, and Gateway subsequently surrendered its license and terminated business operations in North Carolina in January 2010.

- 5) State of Mississippi: Settlement Agreement after Cease and Desist Order entered May 9, 2008, assessing a civil penalty, arising from charges that a Gateway branch office attempted to transact business without a mortgage broker/lender license. Corrective action was taken by Gateway, and it is currently licensed and conducting business in Mississippi.
- 6) State of Arkansas: Mortgage Lender License; Consent Order dated October 26, 2009, assessing a civil penalty, arising from charges that loan officers employed by Gateway originated mortgage loans without being properly licensed by the Arkansas Securities Department and conducted business from an unlicensed branch office. Corrective action was taken by Gateway, and it is licensed and conducting business in Arkansas.
- 7) State of Wisconsin: Consent Order entered January 14, 2009, assessing a civil penalty, arising from charges that Gateway did not hold a certificate of registration with the Department of Financial Institutions and failed to properly complete the application for mortgage banker license. Corrective action was taken by Gateway, and its mortgage banker certificate was approved by Wisconsin. Gateway subsequently surrendered its license and terminated business operations in Wisconsin in January 2011.
- 8) State of Kentucky: Consent Order entered March 2011, assessing a fine for conducting mortgage loan business without a license in Kentucky and using an unregistered loan officer to originate Kentucky loans. Corrective action was taken by Gateway. Gateway is not currently conducting business in Kentucky as of May 2009.

Scott Gesell requested an appointment to speak to the Commission on behalf of Gateway Mortgage Group and Reliable Appraisal Management, LLC. The matter was presented on July 8, 2013 for applicant review and Mr. Gesell was present. Ms. Point moved to table the decision on granting an AMC license to Reliable Appraisal Management, LLC, until Mr. Gesell was able to furnish background check information on the AMC controlling person, Mr. J. Kevin Stitt and a copy of the Errors and Omissions insurance policy for the company. It was seconded by Ms. Johnson. The motion carried unopposed.

As follow-up to the meeting, Reliable Appraisal Management, LLC (RAM) provided:

1. A certificate of insurance showing RAM as the Certificate Holder and setting forth the coverage limits.
2. A copy of RAM's application submitted as part of RAM's licensing approval in the State of Florida which includes background information regarding Mr. Stitt.
3. Additional background information on Mr. Stitt regarding community activities.

Ms. Avers then recommended that this application be approved.

Mr. Walton made the motion to accept the director's recommendation and approve the application. This was seconded by Dr. Baryla. The motion passed unanimously.

Before the next application review was presented by Ms. Avers, Dr. Baryla recused himself from the vote on the next matter.

2. Application Review – Gary Lee Beaver

On August 1, 2013 an application to become a certified general appraiser (based on reciprocity with the State of Georgia) was received by staff from applicant Gary Lee Beaver. Mr. Beaver also holds a credential in the State of South Carolina which was granted through reciprocity. He previously held a credential in Colorado which had been **revoked** in 2008 and a credential in New Mexico which expired in 1999. The application was initially incomplete, the applicant was given opportunity to address the missing pages of the application and answer the required character question document request.

The application included marking “yes” to character question 1 on the application, which reads in part, “have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere?”

Mr. Beaver summarized his disciplinary history in a letter to the Commission.

- He indicated he had been disciplined in 1997 which involved an appraisal he signed as supervisor which resulted in a \$500 fine and a 15 hour USPAP course.
- He indicated he worked part time in Colorado and part time in Georgia, but for health reasons he decided to let the Colorado license expire.
- He indicated in May of 2008 someone filed a complaint against him and the Colorado board requested response and audit of his continuing education. He indicated that he called the Board office to notify them that he would not be renewing and would not challenge the complaint. He indicated he gave them his Georgia and Florida addresses at that time. He concluded in his letter that he had no further contact with Colorado and considered the matter closed.
- Colorado revoked his certification on August 8, 2008.
- The South Carolina Appraisal Board reprimands licensees that are sanctioned in another state. South Carolina placed Mr. Beaver’s certification on two years’ probation according to his letter and the probation ended without incident.

Mr. Beaver submitted a Certification History from Georgia and South Carolina, including the South Carolina consent agreement from November 2008.

On August 14, 2013, Tennessee administrative staff contacted the Colorado administrative offices and obtained copies of all prior orders relating to Mr. Gary Lee Beaver. There were more orders than originally described in Mr. Beaver’s summary letter. He was notified by email on August 30, 2013, of the additional order and he called in and said he had forgotten the order from 1997. He was informed by phone and email that he could get a copy of the documents if he requested, and was scheduled an appointment to discuss the application with the Tennessee Commission.

- The allegations in the **August 8, 2008** Colorado complaint including “grossly inflating an appraisal of residential property which resulted in financial injury to one or more parties” and which was disposed of by **revoking** the appraiser credential when a notice of the complaint letter was delivered, but the Respondent did not accept the delivery of the letter at the Colorado address or Florida address, but did acknowledge a voicemail.

- He was disciplined **September 15, 2000**, for failing to submit continuing education to Colorado when he was selected for audit during the renewal period of January 1, 2000 to December 31, 2002. He had made application stating under penalty of perjury in the second degree that he had complied with the continuing education requirements. He had also failed to complete the continuing education requirements and terms for a prior agreement during the period January 1, 1997 to December 31, 1999. According to the order, Mr. Beaver documented 15 hours completed after notice of audit and after investigative contact.
- In an additional final agency order executed **December 30, 1997**, the Respondent was disciplined for multiple violations of USPAP, including the Ethics Provision noting the Respondent “acted in manners that were unlawful, unethical and improper”. The disposition included a two (2) year probation, \$2,000 fine, which all but \$500 was stayed, a fifteen (15) hour USPAP and fifteen (15) hours of report writing course(s).

Staff Recommendation and reasoning:

The applicant has a disciplinary history in Colorado and South Carolina. The South Carolina discipline was reciprocal discipline resulting from the revocation in Colorado.

The medical history of the applicant does not resolve the revoked standing or the complaint that was filed in Colorado before he moved to Georgia. The application required that he submit “a complete listing of all disciplinary sanctions imposed against all of your appraiser and other professional licenses along with the dates such discipline was imposed.” The applicant failed to submit the information with the application and was not complete and accurate in his written summary response of his disciplinary history. The applicant is not in good standing in Colorado.

Given the above, Ms. Avers recommended this application be denied.

Chairman Green then invited Mr. Beaver, to address the Commission regarding his request for certification in Tennessee. Mr. Beaver began by offering the Commission some of his past appraisal reports and letters of recommendation that would speak to the high quality of his work. He said had never had any issues with his (appraisal) clients in Georgia or South Carolina, it was procedural issues that got his license revoked in Colorado. The discipline in South Carolina was reciprocal probation as a result of the Colorado action. He said that he did not receive the mail notice of the formal hearing and he had previously requested that mail be sent to the new Georgia address. He said he had told the Colorado Board he would not be renewing his license, but his not attending to the correspondence from them is what got his license revoked. He added that severe health issues had also contributed to his not being able to comply with correspondence and requests made of him by the licensing authorities in Colorado at that time. He only heard of the revocation in Colorado when he got a letter from the South Carolina Board.

Chairman Green thanked Mr. Beaver for coming to meet the Commission and then asked for a motion on Ms. Avers’ recommendation to deny the application.

There being no motion from the Board on Director Avers’ recommendation, Chairman Green invited comments and discussion from the members. Ms. Point requested time to look over the documents and so made a motion to hold the discussion and any subsequent voting to the next meeting, so as to give the matter their full consideration. The motion was seconded by Mr. Walton. The vote passed unanimously.

LEGAL REPORT

1. 2013007651

Counsel requested that this first matter be tabled for the next Board meeting as there was a problem with the respondent's address that needed to be addressed before proceeding.

2. 2013000851

This complaint was filed by a consumer and alleged that Respondent failed to employ recognized methods and techniques in the appraisal of a property for the market value of a pipeline estimate in May 2006, with regards to the "damage to the remainder" and the "cost to cure". In addition, the complaint alleged that Respondent failed to appropriately report these to a federal court, which the Complainant alleged caused significant reduction in the settlement.

Respondent acknowledged completing an appraisal on the subject property in his response to the complaint and indicated that a gas company was installing a 16" natural gas transmission line across multiple properties in the northern portion of the county. Respondent's client was the attorney for the Complainant. In response to the allegations in the complaint, Respondent acknowledged that he was paid by the Complainant for the first appraisal report. He then updated the report at "no charge". Respondent acknowledged that he provided Complainant's attorney with an appraisal report dated September 29, 2008 on Complainant's property and then provided an updated report dated August 25, 2010. The attorney requested the update after a conversation with regard to the date of taking and meeting the spirit of the Federal Rule. The updated report reflected the new established date of taking by the Federal Court to follow the spirit of the Federal before and after rule. Respondent denies the claim that Complainant makes, which is the focus of this complaint, that the inclusion of the "cost to cure items" into one damage factor (again to meet the spirit of the Federal Rule, before and after) caused Complainant to have his settlement limited. Respondent indicated that Complainant is operating under the assumption the "cost to cure items" would be allowed by the Federal Court if presented with only the first appraisal and he would receive all or a portion of the cost to cure. There are no facts to support this complaint. Respondent claims that the facts do not support Complainant's claim that the Respondent appraiser is responsible for him receiving less of a settlement than he wanted. Respondent stated the Complainant is passionate about his position of not wanting the pipeline across his property and his personal position is that he is due extraordinary damages to the remainder of his property, as a result of the taking and construction. Complainant has at least one other lawsuit pending against the pipeline owners.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

The appraiser originally developed the appraisal following the "state rule". In the court proceedings, the judge required the appraiser to employ the "federal rule," which is fundamentally different. The state rule permits a valuation of the total property, the part acquired, and any offsetting damages and/or benefits to the remainder. The federal rule requires valuation of the property before acquisition, and valuation of the property after acquisition. In the reviewer's opinion, the Respondent's actions which Complainant considered a mistake were the result of the judicial decision, and the reviewer does not find the complaint to be valid. In the reviewer's opinion, the Respondent provided two reports that were accurate and in compliance with USPAP. The Respondent provided adequate and relevant data and the propriety of any judgment to the data. The reviewer did not find any USPAP violations in either report. The reviewer found that Respondent utilized recognized methods and techniques. Based upon the reviewer's review and analysis, he concluded that the appraiser is in substantial compliance with the minimum standards of USPAP. Respondent indicated rights appraised as fee simple. He did not state easement interests as interest appraised. Other portions of the report make it clear that he was appraising the easement interest. Thus, the reviewer recommended that the complaint be dismissed based on the summary and conclusions of the review report.

License History:

Certified General

10/4/1991-Present

Disciplinary History: 200500415-Dismissed.

Reasoning and Recommendation: Based on the reviewer's report and conclusions, Counsel recommended that the matter be **closed with no further action**.

Vote: Mr. Walton made the motion to accept counsel's recommendation as presented. This was seconded by Ms. Johnson. The motion carried unanimously.

3. 2012011061, 2012011771

Complaint No. 2012011061

This complaint was filed by a mortgage lender, who appears to be the purchaser of the loan in this matter, and alleged mortgage fraud on the part of Respondent by inflating the property value by forty percent (40%) or forty thousand dollars (\$40,000). The complaint alleged that as a result of this activity, the mortgage loan went into default. The loan has since completed REO.

Respondent sent a response to the complaint stating that she did not do an appraisal for the mortgage lender who is the Complainant in this matter, as she was not on their approved list. Respondent claimed she did not inflate any value, nor did she commit mortgage fraud. In her sales comparison approach, she utilized two sales that were in the immediate area and substantiated the value conclusion. Respondent suggested that the value for the site value opinion was based on the extraction method based on the sales price, then taking the cost of the improvements less depreciation, then subtracting this amount from the price, giving you the site value.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Comparable #3 sale price was for a multi-parcel sale. It was not disclosed as such and was not a comparable sale. The Respondent noted the MLS as a data source for comparables #1 and #2. Neither sale was found by the reviewer in the MLS. As such, the Respondent did not analyze the correct data as it was not verified properly. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(b)(viii)]
- The income approach and GRM were not supported. The GRM is high at 100, and comparables #1 and #3 appear to indicate a GRM of less than 60. Operating expenses are lower than normal (including typical management expense) with no supporting data in the report or work file. It notes month expenses are provided by the lender but none were found. [SR 1-1(a)(b)(c); SR 1-4(c)(ii)(iv); SR 2-1(a)(b); SR 2-2(b)(viii)]
- REO effect on market was not analyzed. Neighborhood factors affecting marketability and trends were not adequately described, discussed, or analyzed. The neighborhood location is noted as suburban, but this property is in an urban area. The built-up is incorrectly identified as 25-75%. The actual build-up is over 75%. The marketing time checked is 3-6 months, but the body of the addendum notes the marketing time is averaging 80-84 days-slightly less than 3 months. The list and sale price ranges on the addendum do not agree with what was noted in the neighborhood section. [SR 1-1(b)(c); SR 1-2(e)(i); SR 1-3(a); SR 2-1(b); SR 2-2(b)(iii)]
- Sales used were not properly verified or analyzed. The sales selected were not typical in the area. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(b)(viii)]
- One sale is outside the subject's market area.
- The site value is not supported.
- The cost approach data is unsupported. The conclusion is not adequately supported. Cost data is reported to be from "Marshall and Swift", dated 12/2006 with an average quality rating. More current cost data was available-this report was constructed almost 2 years after the utilized cost data- and the more current data should have been utilized. There was little supportive information found in the report or supplied by Respondent in the work file. [Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(b)(i)(ii); SR 2-2(b)(viii)]

- Work file information provided is inadequate and does not support the report. [Ethics Rule-Record Keeping]
- The operating income statement was not developed adequately and not supported.
- The sales comparison adjustments are not supported.
- Applicability and suitability of the approaches used have not been adequately reconciled. The cost approach does not produce credible results based on the inconsistencies found. Inconsistencies in the data used in the sales comparison approach reduce the credibility of this approach, therefore, reducing the credibility of the final value opinion. The income approach does not appear to be developed adequately, therefore, reducing the credibility. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-6(a)(b); SR 2-2(b)(viii)]
- The appraisal report notes the drive to be 4 cars and concrete/unpaved. It appears unpaved actually means dirt. This is misleading. The relevant characteristics of the improvements and their effect of value have not been adequately described. [SR 1-2(e)]
- The lot number was reported incorrectly. [SR 2-1(b)(iii)]

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

Licensing History:	Certified Residential	5/1/1998-4/27/2012
	Suspended	4/27/2012-7/9/2013
	Active	7/9/2013-Present

Disciplinary History: (\$500 civil penalty, 30 hour Basic Appraisal Procedures course, 15 hour Residential Report Writing course, 438 day suspension for failure to comply with the terms of the Consent Order)

It should be noted that this complaint 2012011061 is from November 25, 2008, which was prior to the corrective education in the disciplinary history noted. However, the violations are significant in the appraisal, and according to the reviewer, show an incompetent performance of an appraisal.

Complaint No. 2012011771

This complaint was filed by a mortgage lender, who appears to be the purchaser of the loan in this matter, and alleged mortgage fraud on the part of Respondent by inflating the property value by 57.69% or \$37,500. Complainant lender is no longer servicing the loan.

Respondent sent a response to the complaint stating that she did not do an appraisal for the mortgage lender who is the Complainant in this matter, as she was not on their approved list. Therefore, Complainant had no right to use her appraisal. Respondent claimed she did not inflate any value, nor did she commit mortgage fraud. Respondent claimed that all three of her sales were taken from the immediate area and interior photos were included to show that the subject was not in disrepair. The subject was under contract for \$50,000 with gift equity of \$13,425.15. Respondent stated in her response that the cost approach information included is from a later date than what was on the original appraisal, due to a fire she sustained at her home in February 2009. Some of her work files were lost in this fire. The value for the site value opinion was based on the extraction method, based on the sales price, then taking the cost of the improvements, less depreciation then subtracting this amount from the price, giving you the site value.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Information concerning the cost approach is misleading and incomplete. Cost data is reported to be from “Marshall and Swift”, dated 12/2006 with an average quality rating. More current cost data was available- this report was constructed over one year after the utilized cost data-and the more current data should have been utilized. The multi-purpose addendum notates the Respondent estimated the reproduction cost, but the appraisal report noted the replacement cost

was estimated. The extraction method was utilized, and this is problematic since the sales comparison approach is always the preferred method if sales exist. [Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(b)(i)&(ii); SR 2-2(b)(viii)]

- REO effect on market was not analyzed. Neighborhood factors affecting marketability and trends were not adequately described, discussed, or analyzed. The neighborhood location is noted as suburban, but this property is in an urban area. The built-up is incorrectly identified as 25-75%. The actual built-up is over 75%. The marketing time checked is 3-6 months, but the body of the addendum notes the marketing time is averaging 80 days-slightly less than 3 months. The Respondent noted the values to be stable. The reviewer noted the property values actually appear to have declined over a two year period prior to the effective date of the appraisal report. [SR 1-1(b)(c); SR 1-2(e)(i); SR 1-3(a); SR 2-1(b); SR 2-2(b)(iii)]
- Sales used were not properly verified or analyzed. There appear to be more similar sales, but there is nothing noted about why these sales were not utilized. The sales utilized appear to be much higher than the majority of the other sales in the area. No reasoning was included as to why this property and the comparable properties sold for much higher than the typical similar property in the area. According to the reviewer, the sales selected were not typical of the area. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(b)(iii)(viii)]
- Work file information provided is inadequate and does not support the report. The reviewer noted that although the Respondent stated some of her work files were destroyed in a fire, the Commission was provided with a copy of the appraisal report, Respondent's sketch and notes from the property visit, information about the request, and some of the data sheets noting a date at the bottom of 2/2008. As such, it appears this is the complete work file. [Ethics Rule-Record Keeping]
- The sales comparison adjustments are not supported. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(b)(iii)(viii)]
- Applicability and suitability of the approaches used have not been adequately reconciled. The cost approach does not produce credible results based on the information found. Incorrect data, non-verified data, and non-typical sales used in the sales comparison approach reduce the credibility of this approach, therefore reducing the credibility of the final value opinion. The income approach was not developed. [Ethics Rule-Conduct(line 226); Competency Rule-Being Competent; Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-6(a)(b); SR 2-2(b)(viii)]

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

Licensing History:	Certified Residential	5/1/1998-4/27/2012
	Suspended	4/27/2012-7/9/2013
	Active	7/9/2013-Present

Disciplinary History: (\$500 civil penalty, 30 hour Basic Appraisal Procedures course, 15 hour Residential Report Writing course, 438 day suspension for failure to comply with the terms of the Consent Order)

It should be noted that this complaint 201201171 is from 2008, which was prior to the corrective education in the disciplinary history noted. However, the violations are significant in the appraisal, and according to the reviewer, show an incompetent performance of an appraisal.

Reasoning and Recommendation: The reviewer's conclusions for both of these complaints indicate a significant level of USPAP violations, as well as a pattern of conduct for this Respondent. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be satisfied within thirty (30) days of execution of the Consent Order, as well as a two (2) year probationary period, during which the Respondent licensee cannot supervise any registered trainees. The probationary period will start on the date the Consent Order is executed. These terms are to be settled by Consent Order or Formal Hearing.

Vote: Ms. Point made the motion to amend counsel's recommendation to:

- A civil penalty of penalty of five thousand dollars (\$5,000 to be paid within thirty (30) days;
- A two (2) year ;probation period during which the respondent turns in experience logs every six (6) months to the director and reports are reviewed for USPAP compliance;
- No trainees under supervision for this duration; and
- Any non-compliance at any point in time would result in the license being revoked.

This was seconded by Mr. Walton. The motion carried unanimously.

4. 2013004461

This complaint was filed by a homeowner who was in the process of refinancing a home and alleged that Respondent showed up to appraise the home, having forgotten his measuring devices, but proceeded to do the appraisal anyway. Complainant alleged Respondent spent approximately 30 minutes evaluating the home. Complainant alleged Respondent appraised his home for less than he bought it for in 2007, and the house now has all new renovations. Complainant also alleged that the comparables used by Respondent were not appropriate.

Respondent sent a response to the complaint stating that he did measure the subject property on the day of the appraisal and that he had not forgotten his tape measure. Respondent indicated that he did include a handwritten sketch illustrating measurements on the back of the order form because he did forget his clipboard and legal pad. Respondent claimed he spent approximately 45 minutes to an hour viewing, measuring, and photographing Complainant's home. Respondent stated the comparables used were adequate and appropriate in this case and that he did not appraise the property in a reckless or inappropriate manner. In regard to the dollar amounts stated in the complaint by the owner, Respondent indicated he had no pre-determined value in mind when appraising any property, and to base his conclusions upon a predetermined expectation of the owner would be unethical.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Quality and condition ratings have not been adequately assessed in light of the description of the subject provided in the appraisal of the subject in 2008.
- The lender/client is identified on page 1, but each of the photo pages show a different client named, and this entity is not identified elsewhere in the report.
- Respondent completed the descriptive sections of the URAR 1004 form and included information on the areas or surfaces that were remodeled but did not adequately describe the remodeling from the time of the last purchase by these owners on 10/22/2007.
- The scope of work was included in the standard information for the URAR 1004 form, but no additional descriptive information on the scope of work was provided.
- Respondent stated that the highest and best use was the present use but did not provide additional information beyond this statement to support the highest and best use. Respondent did not analyze the relevant legal, physical, and economic factors to the extent necessary for support.
- The appraiser used Marshall and Swift to analyze such comparable cost data available to estimate the cost new of the improvements, but the average quality cost was not appropriate for this home that has been updated with quality materials, including custom cabinetry and granite countertops, hardwood, and ceramic tile flooring, etc. This is an inconsistency in the appraisal.
- The report does not summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment. The real estate is described and identified as well as the improvements included in the appraisal, but additional information should have been included to more clearly describe the subject's updates since the last purchase in 2007.

Respondent's response to reviewer conclusions

Respondent was given the opportunity to respond to the reviewer's conclusions once the review was completed, and Respondent sent such response to this office on August 21, 2013. In his response, Respondent stated that the quality of construction ratings and condition ratings of the subject property physical characteristics and physical condition was reported accurately and clearly as of the effective date of the appraisal. To state that the quality of construction for the subject is Q1 would be misleading to the client. To state that the condition of the subject is C1 would be misleading to the client. The condition of the property is remodeled; yet, the superstructure of the residence is aged 30 years. The subject property does not compete/compare with residences of exceptional quality nor does the subject property compete/compare to new residential construction. Respondent stated that he is not required to investigate the extent of the remodeling from five years prior to the effective date of the appraisal, as the remodeling of subject residence occurred in 2007 and 2008. Respondent stated that he observed the subject in its "as is" physical condition and reported the "as is" physical condition of the improvements as of the day he visited the property. Respondent stated the scope of work is included in the pre-printed URAR 1004 form, and he deems the scope of work to be adequate for the appraisal assignment performed and for the intended use of the appraisal report. Respondent stated that he used a combination of sources for cost estimation of the subject property. The Cost approach is compartmentalized; therefore, specific items are broken down to illustrate above grade area, basement area, finished basement area, additions, porches and decks, fireplaces, appliances and the like. When reporting the cost approach, each compartment is reported to illustrate depreciated cost contribution. The depreciated costs of the improvements are then added to the opinion of site value and the "as is" value of site improvements. This cost approach is a reconstruction of the replacement costs new of the subject gross living area, basement area, porch, decking area, and components of the subject housing unit. Lastly, Respondent disagrees with the statement that the report does not summarize information sufficient to identify the real estate involved in the appraisal. It is Respondent's opinion that the appraisal report contains sufficient physical and economic data relevant to the assignment. The report contains a legal description, sketch, detailed measurements, photographs of the subject, reports of properties that have sold and reports of properties available for sale in the subject immediate and influential market area. The named client and the named lender/client are provided with sufficient reliable analysis regarding the subject market value.

Licensing History:	Registered Trainee	7/13/1995-10/22/2001
	Certified Residential	10/23/2001-Present

Disciplinary History: None.

Reasoning and Recommendation: Respondent has been Certified Residential for almost 12 years with no prior disciplinary history. Based on the information presented by the reviewer, as well as the information in the response by the Respondent, Counsel recommends that this matter be closed with no further action.

Vote: Mr. Walton made the motion to accept counsel's recommendation as presented. This was seconded by Ms. Johnson. The motion carried unanimously.

5. 2013005831, 2013005832

This complaint was filed by a consumer and alleged unprofessional conduct, bias, and failure to properly analyze highest and best use on the part of Respondent. Complainant also alleged that Respondent tampered with and changed the appraisal and did not give proper value to the improvements, such as the bridge crossing the river on the property, as well as a historic stone wall and other special features. Complainant alleged that when they purchased the property, it was overgrown and had not been maintained, and that \$10,000 was spent hiring a land clearing machine, which came through and turned it into a park-like setting along the river. Complainant alleged that the property is worth significantly more than the value assigned by Respondent. Complainant alleged that Respondent appears to be working directly for the City and not as an independent appraiser. In Complainant's opinion, by offering a token

amount for land owner's property, the City is essentially using eminent domain as their primary means of land acquisition on this project, and Respondent is making this possible.

Respondent stated in his response that according to the recorded plat and the county planning commission zoning ordinance, this property cannot be improved with a residential structure as, periodically, it is under water.

Licensing History for 2013005831:	Certified General	10/11/1991-Present
Licensing History for 2013005832:	Registered Trainee	3/17/2010-Present

Disciplinary History: (201300311-pending)

Reasoning and Recommendation: The reviewer found no USPAP violations based on the reports, workfiles, and information provided. After researching the information contained in the appraisal, plat maps, and physical inspection of the property on July 8, 2013, it is the reviewer's opinion that an adequate analysis of highest and best use has been determined for the 1.60 acre tract. The final plat dated 5/20/2001, clearly indicates and states, "The county regional planning commission granted a variance on May 13, 2002 to allow lot to be designated as a non-buildable lot. No buildable permits will be issued until this lot meets all subdivision requirements." Therefore, as of the date of the appraisal, it supports the opinion of highest and best use in that it is not "legally permissible" to build on this lot. In addition, the reviewer found that the changes made to the appraisal, eluded to in the complaint, do not affect that value and no value change was made in the appraisal. No violations of USPAP were observed. As such, Counsel recommends that these matters be closed with no further action.

Vote: Mr. Walton made the motion to accept counsel's recommendation as presented. This was seconded by Dr. Baryla. The motion carried unanimously.

6. 2013007511

This complaint was filed by a consumer and alleged that the appraisal report included errors and was not accurate, which caused the Complainant to not qualify for a reverse mortgage.

Respondent did not send a formal response to the allegations, other than the appraisal report and workfile, along with an email explaining the he used a wrong term in the opening comment page.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Respondent failed to provide adequate support for the value adjustments made in the appraisal and did not provide adequate support for the vacant land valuation. Respondent selected comparable sales that were less similar to the subject and made large adjustments resulting in much higher than typical net and gross percentage adjustments. [SR 1-1(a)]
- Respondent failed to provide a sufficient legal description (map and parcel id are not considered a sufficient legal description) and failed to adequately describe physically and economically, the 8.51 acre tract. [SR 1-2(e)]
- Respondent did not provide the correct zoning for the property (stated it as Residential (R-1) when the correct zoning was A-1(Agriculture and Forestry). Respondent did not provide a detailed analysis of the relevant legal, physical, and economic factors to support the highest and best use conclusion. Per the CRS tax information for 2011, the County tax amount was incorrectly stated. [SR 1-3(a)(b)]
- Respondent failed to analyze such comparable sales data as are available to indicate a value conclusion. The reviewer located other comparable sales that could have been used that would have resulted in lower percentage adjustments. [SR 1-4(a)]
- No sales were provided in the appraisal to support the vacant land value or the site adjustments used across the grid. [SR 1-4(b)]
- Respondent stated that Marshall and Swift Residential Cost Handbook Average Quality was selected along with contractor estimates and market extraction, but the \$105.36 per square foot

above grade cost is much above Marshall & Swift's Average Quality cost and the \$26 per square foot for finished basement space is below typical. [SR 1-4(b)(ii)]

- Respondent stated that most reliance was placed on the sales comparison approach with support from the cost approach without further explanation. [SR 1-6(b)]

Respondent's Response to Reviewer's Conclusions

Respondent agrees that sufficient information was not included to support the value adjustments. However, Respondent is familiar with this market area and the values associated with these differences, and this is stated in the report. Respondent stated he just completed the "Basic Appraisal Procedures" course and was reminded to include the warranty deed book number and page number, as well as other pertinent information in the legal description of the subject. With regard to zoning, Respondent stated he understands that a phone call to the county zoning office is necessary to receive the appropriate zoning in the future. Respondent stated that vacant land sales were provided to support the subject site value, as well as the value used in the adjustments. What was not included was more commentary to fully convey how these adjustments were finally derived. Respondent stated the subject is of Q3 quality of construction. This is an agreement with Marshall and Swift for "good" quality. That is why good quality cost estimates were used in the report instead of the average quality costs. Respondent agrees that a higher cost per square foot for finished basement area is warranted. Respondent agrees that the statement that the sales comparison approach was given more consideration than the cost approach could have been expanded and more detailed. In summary, Respondent requests leniency from the Commission as all areas of concern are now understood and, he knows how to properly eliminate these mistakes in future reports.

Licensing History:	Registered Trainee	4/25/2000-9/15/2002
	Licensed RE Appraiser	9/16/2002-10/4/2007
	Certified Residential	10/5/2007-Present

Disciplinary History: 200705060-Closed with a Consent Order for education.

Reasoning and Recommendation: The reviewer noted that the appraisal was unacceptable, in that market value estimates are not sufficiently supported and the subject property description is not accurate and/or complete. The reviewer also noted that more similar homes with site adjustments would have resulted in a more reliable appraisal, and the percentage adjustments are too high to be reliable in this appraisal. Multiple USPAP violations were noted in the review. 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 Residential Appraiser Site Valuation and Cost Approach and a fifteen (15) hour Residential Report Writing and Case Studies course. These terms are to be settled by Consent Order or Formal Hearing.

Vote: Ms. Point made the motion to accept counsel's recommendation as presented. This was seconded by Mr. Standifer. The motion carried unanimously.

7. 201301236 There was no reviewer in this matter.

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission, due to a revoked appraisal license in the state of Texas, without formal charges, notice of hearing, or a formal hearing. The Texas Appraiser Licensing and Certification Board submitted an Order dated May 17, 2013 to this office, stating that Respondent submitted to the Board his affidavit that he no longer desired to be approved as a registered nonresident temporary appraiser, and that he voluntarily surrendered his registration. As a result of this affidavit, the Board ordered that his registration to practice real property appraisal in the State of Texas be revoked without formal charges, notice of hearing, or a formal hearing.

It should be noted that Tenn. Com. R. & Reg. 1255-6-.01(3) states, "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."

Respondent filed a response to this complaint, stating that the Texas Real Estate Appraiser Board was forwarded a complaint in relation to an appraisal assignment in Texas in 2012. The complaint was made based on the absence of the temporary appraisal permit letter in the initial report. Respondent stated he applied for the temporary permit before the assignment was approved for the permit and was to receive the permit via email prior to the effective date of the report. The permit was noted by the Texas Appraiser Board to have been sent prior to the effective date; however, it was not received. Respondent indicated that after being notified by the TALB that a complaint was filed, the initial complaint was cleared up; however, after the TALB reviewed the report, they had several questions as to USPAP compliance. After several conversations with TALB, Respondent stated it seemed clear that his best option, without further expense for travel and/or additional counsel, was to surrender the temporary license. Respondent stated that at the time, the TALB informed him that vacating the temporary license had no bearing on his professional status anywhere else and no further action would be necessary. It was Respondent's opinion that this matter had been resolved, and he does not think that this situation should affect his professional certified general status or ability to perform appraisal assignments in the State of Tennessee. Respondent stated that he does not intend to perform such services in other regions any time in the foreseeable future.

Licensing History: General RE Appraiser 4/11/1997

Disciplinary History: 2009-Closed with Consent Order requiring a Five Thousand Dollar (\$5,000.00) civil penalty and corrective education.

Reasoning and Recommendation: This complaint does not affect, nor does it have any connection to any services provided by Respondent in the State of Tennessee. As such, Counsel recommends that the Commission take into consideration, the language of **Tenn. Com. R. & Reg. 1255-6-.01(3)**, noted above in determining whether or not disciplinary action is necessary against Respondent in this matter.

Vote: Mr. Walton made the motion to dismiss the case without prejudice. This was seconded by Mr. Standifer. The motion carried unanimously.

8. 2013014991 There was no reviewer in this matter.

This complaint was filed by the administrative staff for the Tennessee Real Estate Appraiser Commission, as a result of information received regarding a judgment against Respondent in the United States District Court in the Western District of Tennessee. The judgment against Respondent consisted of one count of conspiracy to defraud the United States and one count of wire fraud. Respondent plead guilty to both counts, as well as consented to the criminal forfeiture provision. Respondent was sentenced to thirty-three (33) months in prison, as well as a significant monetary penalty.

It should be noted that Respondent's license was indefinitely suspended per final order, and he owes a twenty thousand dollar (\$20,000) civil penalty, education requirements, plus court and investigation costs. His credential also expired, and he did not complete the required continuing education or pay the renewal fees to maintain the former appraiser credential.

No response was requested in this matter.

Licensing History:	Certified Residential	7/25/2006
	Bad Check	7/26/2006-2/18/2008
	Certified Residential-Delinquent	2/19/2008
	Expired	3/14/2008
	Active Certified Residential	3/27/2008-5/18/2009
	Suspended	5/19/2009-Present

Disciplinary History: (200418209-Dismissed; 200421173, 200705648, 200708758, and 200707114-Final Order imposing 2 years of suspension and \$20,000 civil penalty and costs)

Reasoning and Recommendation: Tenn. Code Ann. 62-39-326 [Violations-Revocation or Suspension], states in pertinent part, as follows: “The rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars (\$1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds: (3) Conviction, including conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions and duties of a person developing appraisals and communicating appraisals to others or conviction of any felony; (4) An action or omission involving dishonesty, fraud, or misrepresentation.

Due to the recent conviction/judgment against Respondent in the United States District Court, as well as past history of Respondent, Counsel recommends revocation of Respondent’s appraiser credential, effective immediately upon execution of the Consent Order authorizing revocation. This is to be settled by Consent Order or Formal Hearing.

Vote: Ms. Point made the motion to accept counsel’s recommendation as presented. This was seconded by Dr. Baryla. The motion carried unanimously.

9. 201301656 There was no reviewer in this matter.

This complaint was filed by a consumer/homeowner and alleged that Respondent did not return Complainant’s phone calls. Complainant alleged that Respondent did an appraisal on a house Complainant owned, but when Complainant called him with questions about it, Respondent refused to answer or return the phone calls.

Respondent sent a response to the complaint, stating that the complaint filed was in regards to a property in which Complainant was the seller. The appraisal was ordered by Respondent’s client, a regional bank, for the mortgage lending purchase of the property. Respondent stated that according to the confidentiality section of the ethics rule, an appraiser may not disclose confidential information or assignment results to anyone other than the client, unless specifically authorized by the client. Respondent explained that prior to Complainant’s messages, Respondent asked one of the agents involved to inform all parties involved that any questions regarding the appraisal needed to be directed to the client, as Respondent was not allowed to answer questions from agents, buyers, or sellers, after the inspection. Respondent re-iterates in his response that the Complainant was not his client or an intended user of the report, and, thus, the complaint is not valid.

Licensing History: Licensed RE Appraiser 10/23/2006-6/3/2011
Certified Residential 6/4/2011-Present

Disciplinary History: None.

Reasoning and Recommendation: There appear to be no violations on the part of Respondent in this matter, thus, counsel recommends that this matter be closed with no further action.

Vote: Ms. Johnson made the motion to accept counsel’s recommendation as presented. This was seconded by Mr. Walton. The motion carried unanimously.

10. 2012025511, 2012026941, 2013001371

Respondent, registered as an AMC in Tennessee in March 2012 and headquartered in Jacksonville, FL, failed to pay 3 Tennessee Certified Residential appraisers the amounts of their invoices during the summer and fall of 2012 (the amounts owed to each of these three appraisers averaged approximately

\$3,000). Complaints were filed against Respondent between October and December of 2012, and on January 25, 2013, Respondent filed a voluntary Chapter 7 bankruptcy proceeding and indicated it was closing down its business. This matter was presented previously in March 2013, wherein the Commission voted to offer the Respondent a consent order of voluntary surrender with conditional authority to file a Notice of Hearing and Charges (formal proceeding). Respondent did not sign this proposed consent order this spring and Litigation Counsel filed the formal proceeding in July, 2013.

In early 2013, two of the three Complainants filed claims with the Respondent's surety bond insurer, Lexon Insurance Company, and the invoices of these two Complainants were paid in full by the insurer by late April or May of this year. The third Complainant has indicated he is determining how he wishes to proceed with the insurer.

Respondent has no current ability to pay a civil penalty or costs and is still under bankruptcy protection; further, attempting to collect penalties or hearing costs could implicate possible violation of the bankruptcy automatic stay. However, Respondent has recently signed an Agreed Final Order prepared by Litigation Counsel which, if approved, would result in the immediate revocation of its Tennessee AMC registration without the assessment of civil penalties or costs.

Reasoning and Recommendation: Litigation and Commission Counsel both recommend that the Commission approve the Agreed Final Order signed by Respondent which would revoke Respondent's AMC registration, and we believe that this sanction is sufficient to protect the public. The Respondent has no current ability to pay civil penalties or costs, and any assessment resulting from an Order of this Commission would likely be uncollectible. Although not completely mitigating, the State would note that two out of the three Tennessee appraisers who filed complaints have been made whole by the surety bond insurer – which has not occurred to our knowledge in the previous cases we have dealt with involving AMCs that fail to pay invoices.

Vote: Mr. Walton made the motion to accept counsel's recommendation as presented. This was seconded by Mr. Standifer. The motion carried unanimously.

2012011921 Ms. Baird and Ms. Avers had received correspondence from an attorney on behalf of a Respondent in a complaint matter that had been previously closed in November 2012 with an agreed consent order which included a civil penalty and required education. The Respondent fully complied with the terms of the order in January 2013, but has requested the Commission reconsider the disciplinary action. Ms. Baird summarized the content of the letter without use of any names of the Respondent or Respondent's attorney. Ms. Baird indicated this was an agreed disciplinary action where the Respondent waived their right to appeal or contest the action. No vote was requested or taken on this matter.

DIRECTOR'S REPORT

In the Director's report, Ms. Avers stated that that the Association of Appraiser Regulatory Officials (AARO) conference would be held in Washington, D.C., on October 19 – 22, 2013. Mr. Green and Ms. Avers travel requests had already been approved and Ms. Baird's request was pending. This conference will be critical in preparation for the upcoming implementation of the fingerprint/background check requirements and to receive the updates from the Appraisal Subcommittee (ASC) and the Appraisal Foundation. There will also be updates regarding appraisal management company (AMC) regulation by other jurisdictions and a USPAP for Regulators training session. Mr. Johnstone would not be able to attend due to a scheduling conflict.

Notifications for email updates on law and rule changes and other important notices were now available on the regulatory Board's website.

Ms. Avers provided Commission members with a final draft of the fall newsletter and invited any comments or input from Commission members.

The last matter presented was information that several applicants had applied with education taken before 2008, which did not meet the current qualifying education requirements, when they wanted to upgrade their registration or license. Some trainees had taken their education as early as 2002. These courses do not meet AQB education requirements in effect now, but some applicants believe in error that they were ‘grandfathered’ since they were registered trainees before 2008. She requested that the Commission reach out to spread the word regarding the current education requirements and the changes that will be coming in 2015. She indicated to them that she believe that the Commission would get more requests of this type as the January 1, 2015 changes approached. She further discussed that the individual course approval process allowed in the rules was being used inappropriately as this only addresses continuing education and not qualifying education. Applicants have to fill out documentation and the matrix for qualifying education in the same manner as course providers. She noted that trainee applicants were never happy to have to fill out a very complex course matrix to get their courses “individually” approved and the process is burdensome for staff and the education member as well.

Mr. Green suggested that perhaps an education contract reviewer was a possible solution. He suggested that we look to other states and what they were doing in this matter. Ms. Avers added that some states only approved AQB approved education since they did not have reviewers to undertake this task. She added that in the end applicants (trainees and licensed appraisers) were going to start requesting the Commission review their old education so perhaps some policy could be put in place to address this matter.

Mr. Green then suggested the discussion be deferred till the November meeting, after the AARO conference so they would be able to get some inputs from other Boards as to how they were handling this matter.

Mr. Walton made a motion to table this discussion. This was seconded by Dr. Baryla. The motion carried unanimously.

Having no further business, Chairman Green adjourned the meeting at 3:55 p.m.