



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

April 7<sup>th</sup>, 2014  
Minutes  
First Floor Conference Room (1-B)  
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on April 7<sup>th</sup>, 2014 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Green called the meeting to order at 10:10 a.m. and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Michael Green  
Norman Hall  
Tim Walton  
Gary Standifer  
Eric Collinsworth

**COMMISSION MEMBERS ABSENT**

Mark Johnstone  
Nancy Point  
Rosemary Johnson

**STAFF MEMBERS PRESENT**

Nikole Avers, Keeling Baird, Dennis O'Brien

Chairman Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on March 20<sup>th</sup>, 2014.

**ADOPT AGENDA**

Mr. Hall made a motion to adopt the agenda. It was seconded by Mr. Walton. The motion carried unopposed.

**MINUTES**

The March 10<sup>th</sup>, 2014 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Mr. Collinsworth. The motion carried unopposed.

## APRIL 2014 - EDUCATION COMMITTEE REPORT

Mr. Collinsworth and Director Avers reviewed the submissions. Their recommendations were read into the record as below:

Course Provider	Course Number	Course Name	Instructor	Hours	Type
Appraisal Institute	1739	Application & Interpretation of Simple Linear Regression	Mary Wolverton	15	CE
Appraisal Institute	1741	Residential Applications - Using Technology to Measure and Support Assignment Results	Jim Atwood	7	CE
Appraisal Institute	1742	Residential Applications 2	Jim Atwood	7	CE
IRWA	1743	Understanding Today's Regulatory Environment	E. Collinsworth, D. Braun, N. Avers	4	CE

### Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type
Lonny J. Slatterly (CR 2021)	The Wilson Educational Group	2014-2015 USPAP 7-Hour Update	7	CE
Paul F. Meredith (CG 1505)	SEBA Professional Services	Multifamily Loan Underwriting Training	7	CE

### Instructor Approval

Licensee	Course Provider	Course Name	Hours	Type
Thomas H. Humphreys (CG 1398)	Bryan S. Reynolds & Associates	Residential Appraisal Review 105	7	CE
Thomas H. Humphreys (CG 1398)	Bryan S. Reynolds & Associates	Defensible Appraisal Practices 100	7	CE
Thomas H. Humphreys (CG 1398)	Bryan S. Reynolds & Associates	Today's FHA and VA	7	CE

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

## DIRECTOR'S REPORT

Director Avers informed the members that S. 947 from the 113TH CONGRESS 1ST SESSION was still pending, but if passed into law, would allow Tennessee appraiser applicants to use the National Mortgage Licensing System (NMLS) to run background checks, thus making one fingerprint submission by the candidate usable by any state using the system. SB 2081 had passed, just awaiting public chapter assignment. This bill removes the \$100 late fee requirement if appraisers did not renew their licenses 30 days before the expiration date. The late fee will only be due if they renew after the expiration date within the grace period. SB 1620 pertaining to the fingerprint requirements per AQB changes had passed, but was waiting for the Governor's signature and assignment of public chapter.

On the 2015 rule planning, a fresh draft/copy with all the changes already discussed at earlier meetings was presented. Of additional note were the changes made to 1255-01-.04 where two items were added on temporary permit fees for extensions, to cover military spouses. This addition was prompted by the section added to include military spouses in 1255-06-.03. The last change was in 1255-01-.04 where the supervisor/trainee course was extended to 7 hours.

Director Avers also shared two letters, from South Dakota and Iowa on their opposing views on the AQB exposure draft changing some of the language in the fingerprint/background check requirement and delaying implementation.

The members were also advised to read through the draft rules from the CFPB on AMC regulations, so they could communicate any concerns or recommend changes while it was still pending adoption. The director's report ended with the recent TREAC budget information.

**Note:** Mr. Standifer made a motion to accept Director Avers' language in the new draft of the 2015 rules as presented to date. This was seconded by Mr. Hall. The vote carried unanimously.

Ms. Baird then took the opportunity to introduce the new TREAC attorney on record, Mr. Adrian Chick, who shared that his goal was to bring all the cases headed for formal hearings to a close by the fall. He was welcomed by the board members.

## **REPORT OF EXPERIENCE INTERVIEWS**

**Adam Brabson** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Walton was the reviewer and recommended that his experience request be granted. Mr. Standifer made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

**Marques Morris** made an application to upgrade from a state licensed appraiser to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended that his experience request be granted. Mr. Walton made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

**Shane McAlexander** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Chairman Green was the reviewer and recommended that his experience request be granted. Mr. Walton made a motion to approve the request. This was seconded by Mr. Collinsworth. The motion carried unopposed.

**Roger Stacey** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Hall was the reviewer and recommended that his experience request be granted. Mr. Collinsworth made a motion to approve the request. This was seconded by Mr. Walton. The motion carried unopposed.

**David Cates** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Standifer was the reviewer and recommended that his experience request be granted. Mr. Collinsworth made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

## **LEGAL REPORT**

### **1. 2013018641**

This complaint was filed by a consumer and alleged that the Respondent's value opinion was inflated by about 90% in his report. The comparable sales used were not in the area of the property appraised, and, in one case, even in another city. The complaint alleged that the appraiser was a trainee, and the signer of the appraisal is not knowledgeable with the property in the area of the appraisal.

Respondent provided a response to the complaint, stating that the appraisal was based on the best available data at the time of the appraisal and that the complaint does not tell the complete story. Respondent stated that the complaint alleges that he used data from different cities. Respondent stated that that is correct, but in the same market area (county), a major tourist area. Respondent maintains that he did not violate USPAP in any way.

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

- The proper purpose of the appraisal would have been to develop market value for the Leased Fee Estate. Although the engagement letter requests a fee simple value, it is the appraiser(s) responsibility to contact the client and discuss the matter indicating that the proper purpose would be valuation of the leased fee estate. There is no indication in the workfile that this was discussed with the client. If the client insisted on a fee simple valuation, the report should include a statement that the value being developed is subject to a hypothetical condition.

- The leased fee valuation does not deduct any expenses other than a minimal vacancy loss. Building 3 is rented solely as apartment space and a portion of Building 4 is rented as apartment space to the owner. The rent per square foot for the Building 3 apartment is in the range of rents for the retail space, however, the apartment space in Building 4 is well below the rental space rent range.
- The report does not include any discussion regarding operating expenses other than property taxes. The report does not discuss insurance expense or common area maintenance.
- The valuation of the leased fee estate is not credible due to the omission of various operating expenses. The development of value for the leased fee interest almost appears to be an afterthought.
- There is very minimal discussion of the neighborhood.
- There does not appear to be any basis for selecting the median price of the three sales.
- There is no basis for the adjustments in the report.
- The problem with the size comparison of Sales 3 and 4 is that the subject would not be sold as six separate units, unless subdivided appropriately (hypothetical). In this hypothetical situation, the sales would have to be discounted to reflect an absorption period developed from the market. In reality, none of the sales are particularly similar and the locations are superior.
- The income approach was based on an unstated hypothetical condition that the subject buildings could have been leased at a rate of \$16.00 per square foot, triple net as of the date of valuation. Without the stated hypothetical assumption, this is not a valid approach.
- Rents for properties in or adjacent to the subject city or in the vicinity of the subject would be more appropriate. This appears to be a lack of due diligence.
- The market rent conclusion is high based on the experience of the subject. It is unlikely the rents could be almost doubled (assuming a triple net rent) in the short term without extensive vacancy to match the value developed in the income approach. This assumption is unsupported.
- The concluded capitalization rate does not appear to be based on or supported by any market extracted information.

### **Respondent's Response to Reviewer's Conclusions**

Respondent sent a response to the reviewer's conclusions, responding to each bullet point presented above. With regard to the proper purpose being to develop market value for the leased fee estate, Respondent stated he strongly disagrees with the reviewer. All rents are month to month. In nearly all cases with bank work, the bank requests the market value of the fee simple estate. Respondent stated that the valuation of a property's fee simple estate does not require a hypothetical condition. Respondent stated he has never seen anyone state that the market value of the fee simple estate is hypothetical when an income property is rented month to month, with no leases in place. With regard to bullet #2, Respondent stated that if the leased fee value is based on contract terms, the comments regarding one of the rentals being below the rental space rent range is confusing. Since the rentals are month to month, the leased fee estate should not have been included. With regard to bullet #3, Respondent stated he did not include it in the report, but he has the insurance information in the workfile. Since the time of the report, Respondent is reporting CAM charges, then deducting the charge, to the extent reimbursed. Respondent stated he did not include it since it is a wash. Respondent agrees that the leasehold estate is not credible, however, he emphasized that the client requested fee simple interest. With regard to the neighborhood section, Respondent stated that the neighborhood description is sufficient. The reviewer did not take into consideration that the entire subject county is the primary market area. Appraisal thinking, in recent years, concentrates more on the market than the neighborhood. With regard to the reviewer's comment on using the median for the three sales, Respondent stated he used 5 sales, but that he struggled to identify sales. There are limited commercial fees simple or condo in the county, and at the time of the appraisal, we were in the third year of the "great recession," and many properties involved foreclosures, deeds in lieu of foreclosures, and bank REOs. Respondent stated

he considered 20 sales, which are included in the workfile. Respondent stated that he did discuss adjustments, which the reviewer neglected to note. With regard to reviewer's comment on the income approach not being a valid approach, Respondent stated that the reviewer's thinking is incorrect, since he used the criteria defined in the market value definition. With regard to the reviewer's comment about the market rent being high, Respondent stated that the reviewer is rendering an opinion of value based on this comment and is, thus, subject to the same criteria that Respondent used to develop market value. The owner has 100% occupancy, which is an indication that the property is rented below the market. If the reviewer had a grasp of the market, he/she would recognize that \$16.00 per square foot in the market is on the lower end of the rental market in the subject county. With regard to the capitalization rate not being supported by any market extraction method, Respondent stated that due to subscription services, the commercial MLS, and data sharing, it is easier to obtain information and develop a capitalization rate by market extraction. In this case, Respondent had no data on the rental of the sales to develop the capitalization rate. Respondent stated he used two methods to develop this rate. The first is RealtyRates.com, a subscription service. The second is using the band of investment technique, which are both included in the appraisal report. Both are recognized sources of developing capitalization rates. In summary, Respondent claimed that only one allegation is correct. He did not include all expenses in the leased fee value estimate. However, Respondent concedes that this one error does not rise to the level of a USPAP violation. Respondent denies all other allegations by the reviewer.

**License History:** Certified General 10/31/1991-Present

**Disciplinary History:** 200003426-Closed with no action

**Reasoning and Recommendation:** The reviewer found multiple violations in the appraisal report that is the subject of this complaint. Counsel defers to a Commission recommendation on this matter.

**Vote:** Mr. Walton made a motion to close the case with a letter of caution pertaining to due diligence and income CAM charges including all expenses in the income approach. This was seconded by Mr. Hall. The vote carried by majority with Mr. Collinsworth in opposition.

## **2. 2013019101**

This complaint was filed by Complainant's counsel and alleged that Respondent over-valued the subject property by about 52%. The complaint alleged two overwhelming factors of the valuation that seemed to have driven the variances. First, this loan basis appears to incorporate as "comparable", properties which are located on the main thoroughfares in the subject county. Complainant's property is in a quaint and more remote location. Second, the real property valuation of the loan basis used a figure of almost twice the assessed value, as compared with the county assessment.

Respondent files a response to the complaint, stating that Complainant indicated that the appraisal was completed in 2010, when actually it was completed in 2008. In addition, Respondent stated that the vacant land comparable sales in his appraisal were located in close proximity to the subject property and are quite similar. Respondent also stated that the site value that was indicated by Complainant in the complaint was an incorrect statement of site value. Respondent's indicated the site value estimate in his appraisal was a much lower number.

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

- The proper purpose of the appraisal would have been to develop market value for the Leased Fee Estate. It is the appraiser's responsibility to determine the proper interest to be valued. There is no indication in the workfile what interest was to be valued. If the client

insisted on a fee simple valuation, the report should include a statement that the value being developed is subject to a hypothetical condition. [SR 1-1(e)(ii); SR 1-2(c)]

- The report includes an adjustment of 15% for indirect costs. Marshall Valuation costs include the bulk of indirect costs. Typically, all but 1% to 2% of indirect costs are included. This adjustment appears to be excessive. No support for this is included in the report or workfile provided.
- The report includes an adjustment of 20% for entrepreneur's profit. This is at the upper end of the range presented and appears excessive.
- The expenses are not supported (other than property taxes). The report and workfile contain no mention of historic expenses. The concluded management fee of 2% is unrealistic if a professional management firm was utilized. The insurance expense is not supported. No common area maintenance expense is included. The reserve allowance is quite low considering the construction of the improvements and lack of a maintenance expense.

### **Respondent's Response to Reviewer's Conclusions**

The Respondent sent a response to the reviewer's conclusions, stating that with regard to bullet number 1, Respondent does not disagree with the reviewer's conclusion. However, it is appropriate to note that as the subject rental rate and market rental rates are quite similar, the leased fee value would be very similar if not identical to the fee simple value. With regard to bullet number 2, Respondent stated that the application of the allowance for indirect costs is somewhat subjective. Given the unique nature of the subject property, indirect costs will often exceed what is appropriate for more typical multi-tenant retail properties. This is attributed to more difficulty in achieving stabilized occupancy difficulty in land planning, etc. With regard to bullet number 3, Respondent stated that the subject property is a unique multi-tenant retail development that is located in a somewhat secondary area in which properties typically are only utilized for the sale of locally produced arts and crafts. These factors indicate a higher degree of risk for a potential developer and supports the higher developer/entrepreneurial profit allowance. With regard to the final bullet point, Respondent stated that the client and/or property owner did not provide an operating history for the subject property, despite Respondent's recollection that he likely requested one. As for the 2% allowance for the management expense being unrealistic, Respondent stated it is common in the arts and crafts community that the subject property is managed by the owner. While the fee may appear somewhat modest, it is not unreasonable for the area. Respondent stated he can understand the reviewer's concerns regarding the items detailed in the reviewer's conclusions, however, he does feel that when consideration is given to the unique characteristics of the subject property, as well as the subject market, that certain allowances that are outside what is considered normal in a typical market are necessary for accurate valuation.

<b>License History:</b>	Registered Trainee	1/12/1993-2/8/1995
	Certified Residential	2/9/1995-1/5/1997
	Certified General	1/6/1997-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found multiple violations in the appraisal report that is the subject of this complaint. Counsel defers to a Commission recommendation on this matter.

**Vote:** Mr. Hall made a motion to close the case with no action. This was seconded by Mr. Standifer. The vote carried unanimously.

### **3. 2013023001**

This complaint was filed, according to a letter that was sent by the FHA of HUD's removal with education sanction against the Respondent for violations of FHA guidelines and/or USPAP.

Respondent failed to comply with appropriate assignment scope of work in an FHA appraisal assignment by including excess land in the value opinion. In addition, Respondent failed to provide rationale for using comparable sales more than 11 miles from the subject and were not similar in acreage.

Respondent sent a response to the complaint stating that the subject property did exceed the predominant one-unit housing pricing, due to the subject's larger gross living area and size of site. This property is the upper end of its market. The research conducted on the original report (in the workfile) and the additional research submitted to FHA shows that the subject's market area accepts a wide variance in lot sizes. It was not known if any of the subject's land could be subdivided for lots. A perk test by the governing agency would have to be completed. Respondent stated that the subject property was not over-valued. In Respondent's opinion a residence with 11.2 acres could be readily marketed. The provided exhibits support this opinion.

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

- From the statement provided by Respondent on page 3 of the appraisal report, it is unclear exactly who the client is, as well as who the other intended users are. The front page of the report identifies the client as (client), but the above statement implies that the client is FHA (HUD). According to FHA guidelines, HUD is to be identified as an intended user, but not as the client. [SR 2-2(b)(i)]
- The appraisal report does not provide a report date. [SR 2-2(b)(vi)]
- The following statement is provided in support of the site value opinion. *"The opinion of value for the subject site was determined from the analysis of comparable lot sales and the assessor's site value. In the absence of adequate sales data, the abstraction method may have been utilized."* Basing a site value on local tax assessment records is not a recognized valuation method. -There are no land sales provided in the report to support the value conclusion, and there are no land sales or additional extraction data in the workfile to support a site value opinion. There is no summary of support and no reconciliation of land sales to support any site value at all.
- All sales are adjusted for site value differences; however, no explanation or support for the adjustment amount is provided in the report and no land sales are found in the workfile to support the adjustment. [SR 2-2(b)(viii); SR 1-4, line 560-561]
- An insufficient reconciliation is found in the sales comparison approach to value. Four sales and two listings are used in the analysis with an indicated range of adjusted values of \$58,430, which equates to a 17% variance from high to low. The only statement of reconciliation made in the analysis is, "Most emphasis is placed on closed sales #1 and 2, due to their similar features vs. the subject property and nearby market area." This statement is insufficient to explain how the appraiser arrived at the final value opinion of \$360,000 since the adjusted values of these two sales indicate a range of \$40,750 or an 11.5% difference. [SR 1-6(a); SR 2-2(b)(viii), lines 789-791]
- There is no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, line 877-879]
- No true copy of the appraisal report was submitted to the review appraiser as a part of the workfile for this assignment. [Record Keeping Rule, line 294]

#### **Respondent's Response to Reviewer's Conclusions**

Respondent sent a response to the reviewer's conclusions stating that any technical issues with his appraisal had no substantive effect on the valuation reached. Respondent addressed each bullet point noted by the reviewer. With regard to the client and intended user, Respondent stated that in order to make clear that the FHA is an intended user, he has added comments to his report template for FHA appraisals as follows: *"The intended use of this appraisal is to support FHA's decision to provide mortgage insurance on the real property that is the subject of this appraisal. The intended user of this appraisal report is the lender/client and FHA."* With regard to reasonable exposure time, Respondent has added to the reconciliation section in the report templates as follows: *"The*

appraiser's opinion of reasonable exposure time for the subject property at the market value stated in this report is: \_\_\_\_\_ days." With regard to the date of the report, Respondent indicated that the date was provided in the report. With regard to site value opinion, Respondent stated that research was conducted on vacant land sales that consisted of 5 to 25 acres in the subject county for the previous year from the effective date of the appraisal. There are three pages of land sales included in the workfile. A comparative market analysis was completed on these closed sales. After this information was compiled, a price per acre was then extracted from these sales and then the site value was calculated. With regard to the adjustments for site value differences, after reviewing the pertinent sales, the Respondent reviewed the market reaction of different site lots and then adjusted the comparable sales accordingly. With regard to the reviewer's comment on insufficient reconciliation, Respondent stated that at the time the appraisal was completed, there were very few closed sales that could be utilized for comparison with the subject property. There was a large variance in the indicated range of adjusted values due to the very limited number of pertinent closed sales. This could not be avoided. Most of the emphasis was placed on closed sales 1 and 2, due to their most similar above grade living spaces, and actual ages versus the subject property. With regard to sources of market analysis data, the MLS system was used in comparing vacant land sales, active listings were reviewed to see if any new trends were emerging, tax records were reviewed, and all of the listing agents of the closed sales were interviewed about their listings used in the report. Respondent stated that the highest and best use was noted as its present use on page 1 of the report. Until a public sewer system is added to this street the subject property's highest and best use will be its present use. Respondent stated that the original appraisal was thorough and performed professionally based on limited information available at that time. To the extent the reviewer believed the report was not clear or contained technical errors, Respondent stated he has taken steps to correct future appraisal reports.

<b>License History:</b>	Registered Trainee	3/22/1999-3/20/2003
	Licensed RE Appraiser	3/21/2003-1/17/2008
	Certified Residential	1/18/2008-Present

**Disciplinary History:** 201003027-Dismissed

**Reasoning and Recommendation:** The reviewer indicated lack of reasoning and support for opinions in the Respondent's appraisal. Respondent has been a certified residential appraiser for approximately 4 years with no prior disciplinary action. As such, Counsel recommends the authorization of a Letter of Instruction relating to USPAP reporting requirements.

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

#### **4. 2013024311**

This complaint was filed by an Appraisal Management Company and alleged violations of USPAP and other applicable professional standards. The complaint listed several USPAP sections that Complainant AMC alleged Respondent violated.

Respondent sent a response to the complaint stating that the appraisal was for a reverse mortgage loan so the family could keep their mother's property. The cost data was Marshall and Swift. Land sales were used from and supported by county land sales. Income data was not applicable; this is a small rural county with limited information and sales. There is no contract for sale on subject. Respondent stated that she tried to meet company requests and changes. She was having some trouble with software and emailing the report. She also enclosed a medical statement from her doctor, due to illness. Respondent indicated in her response letter that she wants to make her license inactive, as she can no longer handle the stress of appraising. Respondent has not placed her license into inactive status at this time.

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

- Neighborhood market trends and marketability were not adequately or reasonably discussed or analyzed. The neighborhood boundaries noted in the report appear to be somewhat unclear by not being detailed enough to allow the reader to understand the reasoning for the noted boundaries. The report mentions the (County) line, but it doesn't mention if it's the north or south line. The report also noted that Highway is the southern border, but that is located in (County). The neighborhood trends section of the report indicates that the area property values are declining. A 1004 MC for was also attached to the report that indicated median comparable sale price was "stable". [Scope of Work Rule-Scope of Work Acceptability, line 406-427, page U-14; SR 1-1(b); SR 1-2(e)(i); SR 1-3(a); SR 2-1(b); SR 2-2(b)(iii)]
- The subject site was not properly defined. The report indicates that the subject is a 5 acre site. A review of the information gathered from CRS property detail report indicates that the subject property is a 17 acre site. The tax map included in the subject report indicates the site to be 20 acres. It appears that the Respondent was being asked to perform an appraisal assignment on the residence and a 5 acre portion of the 17 acre property. [Competency Rule, pages U-11& U-12; Scope of Work Rule, pages U-13 & U-14; SR 1-1(b)(c); SR 1-2(e)(v); SR 2-1(a)(b); SR 2-2(b)(iii)]
- Relevant characteristics of the improvements do not appear to have been adequately described. The provided sketch had some calculations provided, but it was unclear how they related to the overall conclusion. Based on the comments in the URAR, it would have been appropriate to provide the intended user/reader and idea of what needed repairs are and how they affect the subject property. [SR 1-1(c); SR 1-2(e)(i); SR 2-2(b)(iii)]
- Analysis of sales and opinions/conclusions are not supported in the sales comparison approach. Sale #1 is 29 years older than the subject, with no comments provided. There were no comments on the adjustments made for site, baths, square footage, HVAC, car storage, out buildings and fire place. Sale #2 was 11 years old as of the effective date of the report. Based on the MLS photos, this property appears to be in good marketable condition and superior to the subject property. The same goes for Sale #3 which is 28 years old and appears to be superior to the subject property. No analysis was provided as to how the subject (with needed repairs) compares to these sales. [SR 1-1(a); SR 1-4(a); SR2-2(b)(viii)]
- Site value was not supported. No supporting information was found in the report or workfile information provided, indicating that the opinion of site value was completed by an appropriate appraisal method or technique. [SR 1-4]
- Cost approach was not properly completed. The report does not correctly identify or analyze depreciation items, and it appears the Respondent has not correctly employed recognized methods and techniques. [Competency Rule; SR 1-1(a)(b)(c); SR 1-4(b)(ii)(iii)]
- Reconciliation does not address the quality or quantity of data in arriving at the final value. The applicability and suitability of the approaches used to arrive at the value conclusions have not been adequately reconciled. [SR 1-6(a)(b); SR 2-2(b)(viii)]
- The workfile does not contain a "true" copy of the appraisal report submitted. The reviewer discovered two copies of the appraisal report that were dated differently from the report submitted by Complainant. One copy shows an effective date of 9/1/2012 and has a signed certification attached dated 9/9/2012. The other copy has an effective date of 10/11/2012, and there was no certification or signature provided. [Record Keeping Rule]

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

<b>License History:</b>	Registered Trainee	5/8/2000-5/23/2004
	Certified Residential	5/24/2004-Present

**Disciplinary History:** 201100242-Closed with Consent Order for \$500 civil penalty and 30 hours of corrective education

**Reasoning and Recommendation:** The reviewer found the quality of Respondent's work to be deficient in its compliance with USPAP and, therefore, the credibility of the assignment results is significantly impaired due to the type and extent of non-compliance as specified above. Respondent has been a certified residential appraiser for approximately 10 years with one prior disciplinary action against her. As such, Counsel recommends the authorization of a consent order for voluntary surrender as the Respondent indicated she wished to make her license "inactive" and she has a scheduled expiration date on the license of May 31, 2014. Such terms are to be settled by Consent Order or Formal Hearing.

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

**5. 2014003791**

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission for failure to provide a valid surety bond. Notice of cancellation of the bond was effective February 21, 2014.

Respondent provided a valid surety bond to this office on March 1, 2014, which was dated back to February 21, 2014.

**Licensing History** Registered AMC 4/26/2012-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** Since Respondent provided proof a valid surety bond to this office on March 1, 2014, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The vote carried unanimously.

**6. 2013011711 (RE-PRESENTATION)**

This matter is a re-presentation from the January 2014 Commission meeting, at which time the following information was presented:

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by using inappropriate comparable sales data, causing the Complainant permanent harm.

Respondent sent a response to the complaint, addressing the issues brought up by Complainant. Respondent stated that in his appraisal, he stated that exposure time for the subject is typically under six (6) months, except for the most unusual properties. The subject is a unique improvement. More importantly, there are limited sales and listings of attached improvements similar to the subject. There is not supportable data that would allow a comparison of attached (common wall) and detached (no common wall) units. Respondent stated the value of a one year difference in age cannot be extracted from the subject market and based on USPAP, an adjustment cannot be made if it lacks support from the market. The value differences of a first floor bedroom and a second floor bedroom cannot be extracted from the subject market. The \$21,000 adjustment to this listing is required by Fannie Mae and is based on the 1004MC and market trends, not value. This is not a deduction from the subject property but of the listing. Respondent noted that Complainant stated that the sketch of her home that Respondent presented in the appraisal omits both her patio and the porch/patio off the mudroom. The concrete slab off the mudroom is a small pad with a concrete walk way to the deck. The deck is in Respondent's sketch, however, looking at

the hand drawn sketch, Respondent did notice that he failed to include the patio at the side of the subject property.

**REVEIWER CONCLUSIONS:**

- The appraisal failed to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions. With regard to the sales comparison approach, several erroneous reporting items were noted with regard to Sale #1: the report indicates that the property is seven (7) years old when it was actually built in 1954 and is 59 years old; the report indicates no seller concessions, but MLS indicates that \$15,000 of seller concessions were paid; and the report indicates that the contract date is 11/12, but MLS indicates that it is 10/12. In addition, this sale is approximately 1,000 square feet larger than the subject and is listed in MLS as having been on the market for zero days. Other sales are available in the market area that are more appropriate than this one. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- Sales #2 and #4 have the wrong picture in the photo addendum. The MLS for Sale #4 states that the property is “priced 50K below appraisal,” and eventually sells for \$69,500 below the list price after being on the market for 161 days. This property sold around \$100,000 less than all the other sales used in the report, yet it is treated as an arms-length transaction. There is no explanation in the appraisal report for these discrepancies. Sale #4 should not have been used in the analysis. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- The appraisal report indicates that normal marketing time is 3-6 months and that exposure time is under 6 months. Sale #3 was on the market for 251 days and Comparable #6 (an active listing) has been on the market for 258 days. There is no explanation as to why these properties exceeded the normal marketing and exposure times of less than 6 months. All sales used in the sales comparison analysis sold more than 6 months from the effective date of the appraisal. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- Four closed sales and two active listings are utilized in the sales comparison approach. These six indicators provide a high-low distribution of value from \$459,500-\$676,700; a range of \$217,200. The report concludes to a value opinion of \$550,000; the contract price of the property is \$605,000, a difference of \$55,000. Standards require an appraiser to reconcile the data in order to provide the rationale for the final value conclusion. The rationale to support this conclusion is not sufficiently provided in the report. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- The appraisal report states that the highest and best use is the current use of the property, but there is no summary of the support and rationale for this opinion. [SR 2-2(b)(ix)]

Respondent was given the opportunity to respond to the reviewer’s conclusions in this matter, however, no response was received.

**Licensing History:** Certified General 1/6/2005-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** In addition to the violations noted above, the reviewer found that the Respondent did not exercise sufficient care to avoid errors in the sales comparison approach that significantly affect the credibility of the assignment results. As a whole, the reviewer found the Respondent’s work to be deficient in its compliance with USPAP. Respondent has been a certified general appraiser for almost nine (9) years with no prior disciplinary action against him. Due to the nature of the violations noted above, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Advanced Residential Applications and Case

Studies course to be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**The Commission voted to approve Counsel's recommendation at that time.**

It states above that Respondent failed to provide a response to the reviewer's conclusions, however, Respondent did, in fact, provide a response that was not received until the date of the Commission meeting, so it was not noted until after the fact. In addition to providing a response, Respondent requested an informal conference with Executive Director Avers and I, which was held on March 17, 2014. During this informal conference, Respondent's responses to the reviewer's conclusions were discussed, and it was found that there 2 major issues with the report. Respondent did not seem to fully understand seller concessions, and there was not enough detail in the reconciliation. Respondent was able to explain most of what was at issue in the review, in a manner that was satisfactory to both Executive Director Avers and I. Respondent seemed to have a good working knowledge of the details that make up an effective appraisal and an effective appraisal report.

**New Reasoning and Recommendation:** After meeting with Respondent, it is the recommendation of Counsel that the Commission authorize a Letter of Warning regarding seller concessions and reconciliation, as noted above, in lieu of the previously authorized civil penalty and CE course. In addition, it is the recommendation of Counsel that, while we cannot mandate it in the Letter of Warning, the Commission recommends a fifteen (15) hour market analysis or report writing course to Respondent, to assist in his understanding of the inconsistencies related to this specific appraisal.

**Vote:** Mr. Walton made a motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The vote carried by majority with Mr. Green and Mr. Collinsworth in opposition.

#### **7. 2014003781**

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission for failure to provide a valid surety bond. Notice of cancellation of the bond was effective February 14, 2014.

This office has evidence via a certified mail return receipt card that the Respondent received notice of the cancellation from this office. This return receipt card was signed by Respondent on March 6, 2014. However, Respondent failed to provide a valid surety bond, subsequent to being put on notice.

**Licensing History**                      Registered AMC                                      8/28/2012-Present

**Disciplinary History:**                      None

**Reasoning and Recommendation:** Since Respondent failed to provide proof of a valid surety bond, after being given notice by this office of cancellation of its bond, Counsel recommends the authorization of a Consent Order for the voluntary surrender of Respondent's AMC registration, effective immediately upon execution of the Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Walton. The vote carried unanimously.

#### **8. 2014000741**

This complaint was filed by an appraiser, alleging that Respondent removed his name from the AMC appraiser panel. Complainant alleged that Respondent's numerous phone calls were what was keeping him from completing the assigned appraisal report.

Respondent filed a response to the complaint, stating that the Complainant was a member of Respondent's panel from November 24, 2009 to January 17, 2014, during which time he received three assignments. For all three assignments, Complainant failed to meet the conditions of the assignment, including failing to meet the due dates, failing to communicate the issues/delays properly, and placing inappropriate comments within the reports. Respondent stated it has complied with all applicable regulations of an AMC in Tennessee. The Complainant was removed from the panel for a number of reasons, primarily related to the third assignment. On January 17, 2014, Respondent contacted Complainant to discuss the potential removal from the panel. Following the phone call, on January 17, 2014, Respondent sent a notification of removal and opportunity to respond to the Complainant. Respondent included an extensive timeline of events, regarding its communication with Complainant on the matter, as well as evidence of the notification sent to Complainant, regarding removal from the panel in January 2014.

**Licensing History**                      Registered AMC                                      7/1/2011-Present

**Disciplinary History:**                      None

**Reasoning and Recommendation:** Sufficient information was provided to show that there were no violations on the part of Respondent, regarding its removing Complainant from its appraiser panel. Complainant failed to provide sufficient proof of a violation on the part of Respondent in this matter. As such, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Collinsworth made a motion to accept counsel's recommendation. This was seconded by Mr. Walton. The vote carried unanimously.

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Having no further business, Mr. Green adjourned the meeting at 12:45pm.