



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

**July 14, 2014**

**Minutes**

**First Floor Conference Room (1-B)  
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on July 14<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  
Mark Johnstone  
Norman Hall  
Nancy Point  
Rosemary Johnson  
Tim Walton  
Gary Standifer  
Dr. Warren F. Mackara

**COMMISSION MEMBERS ABSENT**

Eric Collinsworth

**STAFF MEMBERS PRESENT**

Nikole Avers, Keeling Baird Gamber, Dennis O'Brien

**COURT REPORTER**

Kathy Elmore

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 June 20<sup>th</sup>, 2014. He also welcomed the new education commission member, Dr. Warren (Fred) Mackara.

**ADOPT AGENDA**

Mr. Johnstone made a motion to adopt the agenda. It was seconded by Ms. Johnson. The motion carried unopposed.

**MINUTES**

The May 12<sup>th</sup>, 2014 minutes were reviewed. Mr. Standifer made the motion to accept the minutes as written. It was seconded by Mr. Walton. The motion carried unopposed.

**FORMAL HEARING**

The formal hearing was continued as the judge was not able to attend for medical reasons.

## LEGAL REPORT

(\*Addendums from counsel included)

### 1. 2014000711

This complaint was filed by a consumer and alleged the under-valuing of a residential property by using inappropriate comparable sales data. Complainant alleged that the quality of construction should be Q1. All homes are almost half the size of the subject. The adjustments made were inaccurate.

Respondent sent a response to this complaint, responding to each of these allegations. With regard to the quality of construction, Respondent stated that this property is not considered a Q1 rated property. The subject is a high quality home as described in the Q2 definition, not exceptionally high quality as noted in the Q1 definition. Just because the subject is a "one of a kind" custom designed home does not mean this home could not be found in a high quality tract development. This home is actually an over-improvement for the neighborhood. With regard to all homes being almost half the size of the subject, Respondent stated that as stated in the appraisal, there were no other reasonable sales in the entire subject county to include within the report. The sales utilized within the report are the largest and highest closed sales within the entire county over the past year. To utilize the sales provided by the Complainant from another county would be highly misleading. With regard to adjustments, Respondent stated that bathroom adjustments are not standard or canned adjustments; rather they are extracted from the market. Based on the market and the fact that the subject has a super-adequacy of bathrooms, the adjustment was reasonable. Respondent stated that the action taken by Complainant could be a threat to the general public because Appraiser Independent Safeguards are broken.

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

- The market conditions analysis is deficient in compliance. The neighborhood boundaries describe an area of about 40 square miles, with values from \$20,000 to \$1,800,000, and ages from 0 to 100 years old. In contradiction, the report states on page 11 that, "There is good conformity in styles and values." The neighborhood as described is some combination of neighborhood/market area. In this case, the intended user cannot evaluate the subject's neighborhood properly. The report contains a "recent disaster" on page 11, but does not discuss the nature of the disaster or the concerns it poses in the valuation or mortgage underwriting. [SR 1-1(a)(Lines 486-488)]
- The highest and best use is stated on page 2 of the report. However, the support and rationale for that opinion was not summarized. No analysis was found in the appraiser's workfile. This indicates that no analysis was performed. [SR 2-2(a)(x)(Lines 743-744; SR 1-3(b)(Lines 578-580)]
- Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized adequately. A land analysis was found in the workfile. However, the analysis appears to be based on only size, with no reconciliation. The report states on page 11 that site adjustments should not be made on size alone; view and location are important. [SR 1-1(a)(Lines 487-488; SR 1-2(e)(Lines 532-540)]
- Physical depreciation is supported by the age-life method. Functional depreciation was not explained or supported in the report. No analysis was found in the workfile indicating that no analysis was performed. While USPAP does not set a threshold, an amount of \$112,263 simply must be explained if the appraisal and report are to be considered credible. [SR 1-4(b)(iii)(Lines 590-591)]
- The appraiser stated the adjustment amounts for most of the line-item adjustments. However, the appraiser gave no explanation or support for any of the adjustments except for the "age" and geothermal H/A adjustments. The appraiser provided no support, rationale, or explanation of adjustment amounts. [SR 2-1(b)(Lines 652-653; SR 2-2(a)(viii)(Lines 726-734)]

- The report states and implies that several analyses were performed that were not found in the report or in the workfile. The appraiser states he performed several tasks in the Scope of Work which should be found in the report or in the workfile. (1 “Marshall/Swift Residential Cost Handbook is consulted... and is supplemented by the appraiser’s database; 2 “Site values for all comparable sales are based on a vacant land analysis for a comparable sales. These site adjustments... are well supported by vacant land sales”; 3. “Based on market extraction and consideration of the super adequacy of size... \$75 per square foot is reasonable and well-supported by the market.”) Each of these statements implies a level of due diligence which was not supported by the report or workfile. [Ethics Rule: Conduct (Page U-7)(Line 238); Record-Keeping Rule (U-10)(Lines 321-323)]

**\*Addendum**

**Respondent’s Response to Reviewer’s Conclusions:**

Respondent sent a response to the reviewer’s conclusions, stating that he agreed with the reviewer that the neighborhood boundaries were inaccurate. This was an error on his part. Respondent included a location map with proper boundaries in his response. Respondent also agreed that the “recent disaster” comment should have stated the type of disaster and the concern it poses in the valuation or mortgage underwriting. Respondent stated the highest and best use analysis was performed. He pulled site data and actually performed the reconciliation portion based on the site value. Moving forward, he will include a statement for support and rationale for the highest and best use. Respondent stated that the site adjustments in the report were accurate and vacant land sale data was analyzed and included in the workfile. These adjustments were not based on size only. This is demonstrated in the report, according to Respondent. Respondent did agree that the analysis and conclusions should have been summarized more adequately within this report. Respondent also agrees that the functional depreciation adjustment should have been explained. In this situation the adjustment was warranted based on the large difference between actual cost and market value, due mainly to super adequacy of size for the neighborhood. However, Respondent stated that the report is still credible because the appraised value is based on the sales comparison approach. Respondent stated that line-item adjustments are extracted from the market by paired sales, and Respondent admits this should have been explained in the report. Not all information was included in the workfile because a paired sale analysis is not performed for every line adjustment for every appraisal report. A paired sales analysis is performed at least monthly for common adjustments in all market areas where he performs appraisals. In conclusion, Respondent asks that the Commission take into consideration that this is his first complaint, and the review of his appraisal will help him to improve the quality of his reports. All deficiencies from the review will be corrected and implemented in future appraisals.

<b>License History:</b>	Registered Trainee	9/15/1998-12/03/2000
	Certified Residential	12/4/2000-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found several significant deficiencies within the report prepared by Respondent, including an Ethics Rule violation. 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, as well as a fifteen (15) hour Residential Report Writing Course to be completed within one-hundred eight (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made the motion to close with a letter of warning and flag the file. This was seconded by Mr. Walton. The vote carried unanimously.

**2. 2013024141**

This complaint was filed by a consumer and alleged the under-valuing of a residential property by

using inappropriate comparable sales data. Complainant stated that the subject property was located on a river and was a unique and highly desirable location. Complainant alleged that Respondent's appraisal used three (3) other recent sales as comparable sales, two (2) of which were not located on the river and a third which was a near tear down and had to be completely gutted after the sale.

Respondent filed a response to the complaint stating that the subject property is a unique type of property, in that is of less than average stick-built quality but average cabin quality in this neighborhood. Also, the property itself is very small, .16 acre, listed on the "River"; however it is more like a wide creek with mostly shallow water 3 feet to 10 feet deep off and on and mostly used for tubing or kayaking. Therefore, it is not comparable to many lake front properties in the area, which have access to boat docks and deep water boating activity. The subject cabin does not have a permanent foundation or permanent heat or air source and is also built in a massive flood zone. Because of all of these factors, the subject would probably not qualify for a loan on the secondary market. Respondent stated that he provided interior photos of all the comparable sales from MLS, as well as exterior photos plus MLS briefs and that he would challenge anyone to find what Complainant verbally states to be a comparable in such bad shape that it needs to be gutted. Respondent stated there are very limited similar properties in this area and "as is in this case" only a select very few buyers who are willing to pay well beyond top dollar to purchase these specialty dwellings on the water. As an appraiser, Respondent stated it is his responsibility to attain an estimated value that reflects a broader contingent of potential buyers that would purchase such residences at a proper "going rate" price.

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

- The appraiser should have researched comparable sales, zoning, and concerns over the septic system more diligently. The risk factor should be conveyed to the client. The subject property has some special risk associated with having a private septic system on a lot that is only .16 acres. Part of the site may be underwater part of the time and most of it is in a flood zone. According to the county zoning and codes office, the property could become unusable if the septic stopped working and could not be repaired. [Scope of Work Rule (U-13)(Line 368)]
- The property was a current listing and the property was under contract at the time of the appraisal. The appraiser notes both, but reports no analysis of either. [SR 2-2(b)(viii)(Lines 792-794); SR 1-5(Lines 605-608)]
- The support and rationale for the opinion of highest and best use was not summarized and no analysis was found in the workfile. [SR 2-2(b)(ix)(Lines 799-800); SR 1-3(b)(Lines 556-558)]
- Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized. The sections of the cost approach are not complete until the opinion of lot value is supported by the appropriate analysis. Even when completed the approach would not be relevant because of the difficulty of estimating the various forms of depreciation. [SR 1-4(b)(i)(Line 565)]
- Two of the sales used in the sales comparison approach were not riverfront properties, although at least two additional riverfront sales were available. The appraiser appears to have ignored the importance of river frontage in this market. [SR 2-4(a)(Lines 562-563); SR 1-2(e)(Lines 510 & 512)]
- The appraiser gave no explanation or support for any of the adjustments in the sales comparison approach. [SR 2-1(b)(Lines 630-631); SR 2-2(b)(viii)(Line 783); SR 2-2(b)(viii)(Lines 789-790)]
- The appraiser did not state the exposure time that the value opinion is associated with in the income approach. No analysis was found in the report or the workfile. [SR 2-2(b)(v)(Lines 766-767); SR 1-2(c)]

- The appraiser did not report the previous service statement in the certification. [SR 2-3(Lines 87-88)]
- The zoning was incorrectly marked as a legal use when the use is grandfathered. Offsite improvements were marked as a private gravel road, but it is a public paved road. The neighborhood boundaries were stated to be a 4 mile radius. These boundaries include a number of separate neighborhoods. These errors together trigger a USPAP violation. [SR 1-1(c)(Lines 485-490)]
- The only thing found in the workfile at the date of the appraisal was the MLS sheets for the three sales used and the appraisal report. No field notes, tax cards, contract, analysis, etc. were found. [Record-Keeping Rule(Lines 299-301); Ethics Rule (Line 228)]

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

Respondent sent a response to the reviewer's conclusions, stating that he feels that this claim is from a disgruntled seller because the property did not appraise for what they were asking. Respondent stated he appraised the property in a conservative manner, as his client requested since it was an older cabin and the buyers were not getting a home inspection. Respondent stated he was also protecting the buyers since he knew the area, and they were from out of town and did not understand such unique properties (i.e. cabins on the stream) and their true values. Respondent stated that the complaint was unfounded and that his client stands behind him and is willing to defend him and his appraisal. Respondent also sent a very lengthy response to each allegation made by the reviewer.

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

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer cited multiple violations of USPAP within his review, which showed significant violations. 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 the execution of the Consent Order, as well as a fifteen (15) hour USPAP Course and a fifteen (15) hour Advanced Residential 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.

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

### **3. 2013024401**

This complaint was filed by a consumer and alleged bias in the performance of a residential appraisal because Respondent had been previously interviewed for a job and declined by the homeowner. Complainant alleged that Respondent had an obvious conflict of interest with Complainant in doing this appraisal and used it as a tool to enact revenge on Complainant.

Respondent filed a response to the complaint, denying the allegations of conflict of interest made by Complainant. Respondent denied that he was interviewed by Complainant for any position at any time. Respondent certified within the report that at no time of the appraisal process was he aware and/or influenced to evaluate the property for a result that would satisfy the PMI removal for the borrower and/or home owner. Respondent stated that in his opinion of the market value, as defined, is fair and valid and not influenced by any bias.

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

- The support and rationale for the opinion of highest and best use was not summarized as required by USPAP. No analysis was found in the appraiser's workfile. [SR 2-2(b)(ix)(Lines 799-800); SR 1-3(b)(Lines 556-558)]



- Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized. [SR 1-4(b)(i)(Line 565)]
- The quantity and quality of the data was not discussed in the final reconciliation. No analysis discussing the quality and quantity was found in the workfile indicating the specified analysis was not performed. [SR 1-6(a)(Lines 615-616)]
- The applicability and relevance of the approaches were not discussed in the final reconciliation. [SR 2(b)(viii)(Lines 789-791)].

**Respondent’s Response to Reviewer’s Conclusions:**

Respondent addressed each of the reviewer’s conclusions in his response. With regard to bullet number one, Respondent stated that highest and best use is a process of iteration. The repetitive process of requiring the same questions to be asked to form a conclusion of maximum productivity of land use. The conclusions of highest and best use as reported within the FNMA 1004 form was based on the analysis of relevant physical characteristics which had legal conformity with the zoning and deed restrictions (limiting the subject use to detached single family residential improvement with specific minimum and maximum improvement requirements). With regard to bullet number two, data was collected to support an opinion of site value from public records and multiple listing services of similar properties within the subject’s market area that have similar lot utility, view, and available utilities. The reported land value was significantly assisted by the land valuation of the county tax assessor and comparable properties utilizing the sales comparison approach. All supporting data is available in the workfile. With regard to bullet number three, as stated in the report (sales analysis comments), “The final estimated indicated value is determined by using the gross adjustment of sale price for each comparable as a measure of the relative quality of the comparable. A lower adjustment indicates a better comparable, and vice versa. The ratio of gross dollar adjustment to sale price for each of the comparable sales is used to calculate the weight each comparable should have in a weighted average calculation. This weighted average is used as the indicated value of the subject and all comparable sales are located within the subject’s market area and are considered to be good indicators of the subject’s market value as they are competing properties to a typical buyer. With regard to bullet four, as stated in the report, “The sales comparison approach is given the greatest consideration with support from the cost approach. The income approach is given little consideration as single family residences in this area are not typically income-producing.”

<b>License History:</b>	Registered Trainee	04/02/1998-01/01/2002
	Certified Residential	01/02/2002-Present

**Disciplinary History:** 200504311-Closed with no further action.

**Reasoning and Recommendation:** The reviewer found the report accuracy to be overall acceptable and not misleading. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the violations noted by the reviewer above.

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

**4. 2013023181**

This complaint was filed by an Appraisal Management Company and alleged that Respondent misreported the number of units in the subject property. Complainant alleged that the Respondent provided a report showing the subject having four (4) units instead of the five (5) units that were truly there at the time of the inspection. Respondent provided commentary stating, “For the purposes of this report, the two 1 bedroom units atop the main residence have been considered as one.”

Respondent sent a response to the complaint stating that the subject property was an atypical property, which included a historical residence built in 1900 and a single level residential duplex built in 1963. The historical residence also had the third level (attic level) finished out into two small apartments which were accessed from an exterior staircase. There were two electric meters on the duplex and two electric meters on the historical residence. The client requested the appraisal be completed on Fannie Mae Form 1025, as stated in the report between both structures there were five units, however, due to the layout they were considered as four to comply with the four unit Fannie Mae Form. Respondent stated he would be glad to complete a narrative report, if needed.

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

- Sales 1 and 3, which are located within the neighborhood, adjusted to an indicated value range of \$199,380 to \$215,440. Comparable no. 2, which was located outside of the neighborhood, adjusted to an indicated value of \$445,960. The appraisal conclusion, based on the sales comparison approach, is \$430,000. [SR 1-1(a), (b), & (c); Scope of Work Rule V-13 368, 383, 407, 419]
- The property consists of an older three level home and an adjacent old, but newer, duplex property. The older residence, coupled with the duplex, is reported to have 5 rental units. The appraisal, however, treats the property as 4 units and, therefore, misrepresents the property description. The upper level is composed of (2) one bedroom apartments with a demising wall and separate entrances. To state this area as being one apartment unit is a misrepresentation. In order to treat this area as a single apartment unit, a hypothetical condition would have been required, as well as adjustments to allow conversion of this area to a single apartment. This would have included a prospective value estimate as well as deductions for the required remodeling and possible obsolescence due to the repetition in kitchen areas, floor plan, etc. [Scope of Work V14-407, V 14-419, V 14-428, SR 1-1(b) & (c)]
- A review of the immediate neighborhood using CRS indicated 30 sales had occurred within the immediate neighborhood within the year prior to the date of this appraisal. It seems reasonable to anticipate that, of 30 transactions, there would not be an additional sale that would reasonably compare with the overall property or with the subset demonstrated by the different characteristics of the property, i.e. older home 3 units, and separate newer building composed of a duplex. [SR 1-1(a), (b), & (c)]
- Site value was estimated at \$70,000; however, no data was located within the appraisal or workfile supportive of a land value analysis. [SR 1-1(a) & (b); Scope of Work V-14 407]
- Comments under comparable rental data state, "The above market rentals range from \$6.19 per square foot to \$7.38 per square foot. The subject is currently rented for \$6.13 per square foot which is slightly below the estimated market rental range. No changes are warranted at this time." This statement appears to be misleading in that the rental used is the actual collected rentals reported and did not include the rental allowance that was made for the owner/occupied space. The unit rent estimates for the comparable sales were based on the gross rent potential and did not allow for any non-collected rental. This statement implies that the subject's estimated rent is less than the market while the opposite is true. [SR 1-1(a), (b), & (c); SR 2-1(a)]

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

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found multiple violations of USPAP within Respondent's appraisal report. 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 thirty (30) hour Basic Appraisal Procedures Course to be completed within one-hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

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

**5. 2014006531**

This complaint was filed by an appraiser and alleged that Respondent used an old photo in the cover page, and the photos for the comparable sales are incorrect. In addition, Complainant alleged that Respondent used the incorrect photo on MLS. Complainant alleged the appraisal report is not worth the paper it's written on.

Respondent sent a lengthy response to the complaint stating that he has been a licensed appraiser for over 25 years and has always conducted himself with the utmost integrity and professionalism. Respondent does admit that comparable #1 and #4 do have the same photo, as comparable #1 has the wrong picture posted in the report. This was most likely caused by a software glitch; however, Respondent admitted he should have noticed that during his review, before sending the report to the client. Respondent claims that the other photos within the report are correct, despite Complainant's allegations. With regard to Complainant's allegation that all photos are from MLS, Respondent stated that Listing #1 and #2 and comparable #5 were taken at the time of inspection by the appraiser. The other photos were taken from MLS, but all comparable sales were reviewed from the street by the appraiser. The MLS photos were used as they best reflect the condition of the properties at the time of transfer.

**REVIEWER CONCLUSIONS**

Considering completeness, adequacy, credibility, etc., the reviewer found no significant non-compliance issues with USPAP. Subsequent to the original appraisal, the client submitted a cost estimate to complete certain repairs and requested that the appraiser reconsider based on this additional information. The Respondent re-inspected the property and submitted a second report, which took into account her opinion of the credible repairs required to place the property in saleable condition. The second appraisal included an additional comparable sale and a portion of the sale photos were misidentified in the second appraisal, which could be a violation of SR 1-1(c). However, they were correct in the original appraisal. It is the reviewer's opinion that the reports do not fall short of the requirements of USPAP. The misplacement of the photos is not considered to affect the results of the appraisal, and the client received the original correct photos in the earlier submission so that there was no attempt to mislead. In the reviewer's opinion, this error does not meet the test of SR 1-1(c).

**Licensing History:** Certified Residential 02/13/2004-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** Based on the reviewer's conclusions/opinions noted above, Counsel recommends that this matter be **Closed with no further action.**

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

**6. 2014009261**

This complaint was filed by a consumer and alleged that Respondent did not give the report to the Complainant and failed to reply to his emails/phone calls, despite the fact that Complainant paid him the proper fee for the appraisal. The appraisal was done on March 12, 2014. The complaint was filed May 23, 2014.

Respondent sent a response to the complaint stating that he lives in an area with intermittent cell phone connection and poor reception. Also, the subject property is a sixteen (16) sided custom



built Deltec house, which resulted in a lengthy delay in completing the assignment. Respondent stated he continued to research a four county market area for market participation for a house similar in design to the subject which further delayed the turnaround time for the appraisal. Respondent stated he has apologized to Complainant for the delay and emailed the completed report to her on May 16, 2014. Respondent stated that he is not making excuses for the long turnaround time and lack of contact with Complainant, but given the impact of the AMC business and lower appraiser fees, something has to change or the whole industry will collapse because there will be no new appraisers entering the business. Respondent stated that the AMC's get paid up front from the consumer, but then apparently under the law can use the consumer's money for the appraisal for sixty (60) days, instead of paying the appraiser. Due to low fees and excessive reporting requirements by AMC's to constantly update the status of the appraisal, the overall turnaround times for completing appraisals results in a longer than usual time period to complete a report on this type of property.

**Licensing History:** Certified General 11/09/1995-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** Counsel recommends that this matter be **Closed with no further action**. Turnaround times are outside the authority of the Commission, unless the period could be shown to have violated the public trust, which is not the case in this complaint.

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

## **7. 2014008921**

This complaint was filed by a consumer and alleged that Respondent provided an appraisal that included inappropriate information that the house is uncommon for the area, which caused the purchase not to go through. Respondent alleged that Respondent wrote opinionated information on the form that caused the lender to back out.

Respondent sent a response to the complaint stating that the request for the appraisal was for a rural development loan in which the home should meet rural development housing standards. Respondent stated that after the inspection of the home, Respondent emailed the AMC to inform them the home had only one (1) bedroom, and there were no sales available. As one (1) bedroom homes are not common in the market area, this was noted in the report. Not disclosing this would be a violation of USPAP, according to Respondent. The home had a sunroom that had ductwork to the heat and air but was built on a porch that was on 4x4 piers and did not meet the standards to be counted as a room or finished area. Four days after the initial inspection, Respondent stated he was asked to make some changes to the report, none of which had to do with value, and to search for more sales with the goal of finding a one (1) bedroom home sale. He expanded his search parameters and found a sale used in the revised report as sale 7 and included another 2 bedroom sale in a similar rural area. Respondent stated he received no other requests for any more information or comparable sales. Respondent stated that he never had any interest in the subject property; therefore, Complainant's allegation of bias is ludicrous.

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

- Site Description: The checkbox shows "not in flood zone". However, in the same section the appraiser states that the lower part of the lot appears to be in the flood zone. This may have an effect on the site value and the value of the entire property. [SR 1-1(a)(Lines 486-488); SR 2-2(a)(iii)(Lines 687-689)]
- Subject's Contract, Option, and Listing: The current contract of the subject property is analyzed and reported. The current listing of the subject property is not reported. No

related analysis is found in the workfile indicating that no analysis was performed. [SR 2-2(b)(viii)(Lines 735-737); SR 1-5(a)(Lines 627-630)]

- Extraordinary Assumptions: An extraordinary assumption was used on page 8, but it did not include the statement that, "Its use may have affected the assignment results." [SR 2-2(b)(xi)(Line 747)]
- Cost Approach: Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized adequately. A single land comp. was found in the workfile, but no analysis. [SR 1-4(b)(Line 587)]
- Physical depreciation is supported by the age-life method. Functional depreciation for the subject only having one bedroom was not taken, even though an adjustment was taken for it in the sales comparison grid. The appraiser indicates that the subject is near commercial properties, but no economic depreciation is taken. No analysis was found in the appraiser's workfile indicating that no analysis was performed. The cost approach indicated a value about 33% higher than the direct comparison approach. This is related to not using the proper depreciation rates. [SR 1-4(b)(iii)(Lines 590-591)]
- Direct Comparison Approach: The appraiser stated the adjustment amounts for the line-item adjustments. However, no explanation or support was given for any of the adjustments except for the one versus two bedroom adjustment and the site. Providing no support, rationale, or explanation of adjustment amounts is a violation of USPAP. Having no rationale for adjustments in the comparison approach is also a violation. [SR 2-1(b)(Lines 652-653); SR 2-2(a)(viii)(Lines 726-731); SR 1-1(a)(Lines 487-488)]
- The appraiser states the definition and need for exposure time on page 8. However, he never states the exposure time associated with the value opinion. No related analysis was found in the report or workfile indicating that none was performed. [SR 2-2(a)(v)(Lines 710-711); SR 1-2(c)(iv)(Lines 528-530)]
- Assistance of a trainee was stated and described on page 8. However, the certification does not identify the person who provided professional assistance. [SR 2-3(Lines 841-842; SR 2-3(Lines 822-824)]

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

Respondent filed a response to the reviewer's conclusions, addressing each item noted by the reviewer. With regard to site description, Respondent stated a portion of the site appeared to be in the flood zone, along the small creek on the lower end of the property. The home site is above the flood zone, and the report was checked not being in the flood zone as the home site was not in the zone. With regard to the listing information, Respondent stated he performed a search of other MLS services that overlap in the area and found no other listing information. The listing was analyzed and considered mentally. With regard to extraordinary assumptions, Respondent admitted the comment; "Its use may have affected the assignment results" was not included and should have been. With regard to the cost approach, Respondent stated the workfile submitted should have included 6 land sales. The area has a limited number of land sales and these sales are from the same overall market area. The site was analyzed and the sale data was considered mentally based on experience and knowledge of the market. Respondent admits that this information needs to be reported more clearly. With regard to depreciation, the age life method was used. The subject was reported as being near some commercial property; however, these properties are limited and would have no economic depreciation. The subject is in a rural market area, and the commercial property was grandfathered in when the county was zoned. The subject and neighboring property are zoned A-1 and any future commercial changes in use would have to be approved by the county planning commission. The subject being in a rural market makes any economic depreciation difficult to determine with limited information available. With regard to the direct comparison approach, Respondent stated with the report being a summary report, he may have neglected to fully report the source of all adjustments, in the effort to meet deadlines. With regard to exposure time, Respondent stated it is reported on the first page of the report as being 90-180 days. The definition is added in the comments to clarify exposure time. Respondent stated

he has started combining the dates with the definition to make this clearer. With regard to the trainee, Respondent stated that the trainee is his wife. She is also a licensed real estate agent and was employed by the local assessor's office. She mostly handles office duties including appointments and book-keeping. The evaluations and research is done by Respondent. Respondent stated that many of the problems are the result of a problem systemic within the industry to finish reports in a timely fashion. The recent advent of AMC's and client due dates caused pressure to complete the reports as soon as possible. Respondent stated he will make every effort in the future to better develop his reports in a manner compliant with USPAP.

**Licensing History:** Registered Trainee 3/1/1993-8/3/1997  
Certified Residential 8/4/1997-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer cited multiple violations of USPAP within his review, which showed significant violations. 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 the execution of the Consent Order, as well as a fifteen (15) hour Residential Report Writing Course to be completed within one-hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made the motion to close with a letter of caution. This was seconded by Mr. Johnstone. The vote carried by majority with Mr. Walton opposed.

#### **8. 2014009061**

This complaint was filed by a consumer and included allegations that Respondent was taking pictures of her house without her permission. Complainant alleged that Respondent got her and her brother in the pictures, as they were standing in the driveway in front of the house. Complainant also alleged that their car tags were also visible in the pictures.

Respondent sent a response to the complaint stating that daylight was fading, and he was in need of taking the last of many photos in the neighborhood of comparable sales. Respondent claimed that he identified himself, as well as the purpose of the pictures, to the Complainant and had no intention of making the Complainant feel uncomfortable or unsafe. Respondent stated that he maneuvered his vehicle in such a way that the photo that he used in the report was of the house, only, with no faces or visible car tags.

**Licensing History:** Certified Residential 12/27/1991-Present

**Disciplinary History:** (949563-Dismissed; 950293-Dismissed;  
201102801-Closed with Letter of Instruction)

**Reasoning and Recommendation:** This matter is outside the jurisdiction of the Commission, and, as such, Counsel recommends **Closure of this matter with no further action.**

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

#### **9. 2013018621, 2013018622, 2013018751, 2013018752**

This complaint was filed against two Respondents, a trainee and a supervisor, by two separate Complainants, both mortgage companies, and alleged a misleading appraisal report on the part of Respondent. Complainant alleged that Respondent supervisor signed off as the appraiser that inspected the property; however, the person who actually did the appraisal was Respondent

trainee. Respondent supervisor was never at the property but yet signed off as though he was. The trainee's name is nowhere on the appraisal.

Respondent supervisor sent a response to the complaint, stating that the facts in the complaint are correct as noted. Respondent supervisor stated he did not inspect the property, yet the signature in the report conflicts with this. Respondent supervisor stated this was a clerical error on his part and was, in no way, an attempt to mislead his client. Respondent supervisor stated he had every intention of having the trainee inspect the property alone, that together they would gather all data to put together a good report. Respondent supervisor would then finalize the report, and they would both sign as appraiser and supervisory appraiser, all of which conforms with USPAP guidelines. All the time, Respondent supervisor thought that the report reflected what really happened. It was only a clerical error, which was a product of Respondent supervisor signing thousands of appraisals alone and only recently incorporating the change where there are two signatures. Respondent trainee concurs with the details of this response.

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

- Respondent's letter dated September 29, 2013 clearly states that he did not inspect the subject property and that his trainee conducted the inspection. This is a violation of the Ethics Rule. [Ethics Rule-Conduct Section; Record-Keeping Rule; Scope of Work Rule; SR 1-1(c); SR 1-2(f); SR 2-1(a); SR 2-1(c); SR 2-2(b)(vii); SR 2-3]
- Highest and Best Use: The appraisal report reflects the present use is the subject's highest and best use but offers no support for this conclusion. This information was not located in the appraisal report, and if analysis was not performed by the appraiser in the development portion of the appraisal, then Standard 1-3(b) would also not have been adhered to. [SR 2-2(b)(ix)]
- Sales Comparison Approach: Although sale #1 may have been marketed as one economic unit, a review of the CRS reflects this property consists of three different parcels and two transfers. No discussion was addressed in the report. [SR 2-2(b)(viii)]
- Reconciliation: The reconciliation does not indicate how the final value opinion was developed from the wide range of adjusted sales and list prices of the comparable sales used in the sales comparison approach. Adjusted sale prices ranged from \$216,700 to \$273,400. No indication was included as to which comparable sales were given the greatest weight and why. It is unclear if the listings were weighted in the value conclusion or not. The reconciliation section does reflect the sales comparison approach was given more weight, but, again, there is no rational or recognized technique indicated in how the final opinion was arrived via the sales comparison approach. It should be noted although the claim was more weight given to the sales comparison approach; the final opinion was identical to the sales comparison approach value indication. This indicates 100% weight was likely given to the sales comparison approach. [SR 1-6(a)(b); SR 2-2(b)(viii)]
- Site Value/Cost Approach: There was no support for the land value opinion. There was no information of data provided within the report to support site value opinion. The URAR Fannie Mae form 1004 requires the appraiser to submit "a summary of comparable land sales or other methods for estimating the site value". Simply stating a source is not considered sufficient summarization of the method and techniques. There were land sales in the workfile data with the exact same date stamped at the bottom as the Respondent letter. There was still no reconciliation of this data and only MLS data sheets. There was also no support for an allocation method observed. [SR 1-1(a)(b); SR 1-2(e); SR 1-3(a); SR 1-4(b); SR 1-6(a); SR 2-2(a); SR 2-2(b)(viii)]

**Licensing History:**

<b>Respondent Supervisor</b>	Registered Trainee	4/2/1997-12/3/1998
	Certified Residential	12/4/1998-Present
<b>Respondent Trainee</b>	Registered Trainee	6/26/2012-Present

**Disciplinary History:****Respondent Supervisor:** None**Respondent Trainee:** None

**Reasoning and Recommendation:** As it pertains to Respondent supervisor, 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 the Consent Order, as well as a seven (7) hour Supervising Beginning Appraisers Course and a fifteen (15) hour Report Writing 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.

As it pertains to Respondent trainee, Counsel recommends that a **Letter of Warning** be issued in regard to the above mentioned violations.

**Vote:** Mr. Johnstone made the motion to close with a letter of warning only to the supervisor. This was seconded by Mr. Hall. The vote carried unanimously.

**10. 2014005361**

This complaint was filed by a consumer and alleged the over-valuing of a residential property by using inappropriate comparable sales data. Complainant alleged that the comparable sales used were older than six (6) months. If the housing trend is increasing as the appraisal report states, a true opinion of value cannot be established using outdated comparable sales.

Respondent filed a response to the complaint stating that he has been a certified residential appraiser for over 10 years, and this is the first complaint he has ever received. Respondent stated the most proximate, similar, and current comparable sales available at the time of this report were selected and employed within the report. As stated within the report, time adjustments were not made due to the conflicting market trending indicators offered by the data at the time. All data, including market trending, was considered within the final reconciliation of the value opinion.

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

- Listing/Sales History: The subject property listing history is not correctly stated. There was an additional listing in MTRMLS #1418519 that was originally listed on 1/10/2013 for \$75,900 then increased to \$79,500 on 5/22/2013. It was reduced on 7/26/2013 to \$78,500 and expired after 201 days on the market. This was a concurrent listing during the 12 month period prior to the appraisal inspection. [SR 2-2(a)(viii)]
- Neighborhood: Under the neighborhood section one-unit housing trends, the appraisal does not provide support for the opinion of property values, demand/supply and marketing time. The appraisal does give insight to research of the market data, stating in the addendum that a 29% increase took place in the last quarter. But then stated "stable to increasing" values, which is inconsistent with a 29% increase in the market and contradicts the increasing property values as was checked in the one-unit housing trends. Based on the analysis performed by the reviewer using similar neighborhood boundaries, the results indicated an adjustment of positive 15% should have been applied to the comparable sale under date of sale/time. [SR 1-4(a)]
- Site: No analysis or statements were provided regarding the subject backing up to a major interstate and the associated noise and effect, if any, on the market value or reaction to this form of external obsolescence. The reviewer conducted a study of properties that back up to this major interstate and found that based on the limited analysis, a reconciled adjustment of negative 5% should have been applied to the comparable sales. [SR 1-4(a)(f)]
- Sales Comparison Approach: The appraisal does not reflect a date of sale/time adjustment when under one-unit housing trends stated property values-increasing. The appraisal does not address the subject's external obsolescence due to backing up to a major interstate, and as shown above under "site" an adjustment was warranted. All the comparable sales were



dated and over 6 months old, yet the 1004MC report indicated 7 sales within the last 90 days. After researching the 7 sales, it is the reviewer's opinion that they were as similar to the subject as those used in the original appraisal. The original sale 1 was an updated REO property, but the appraisal did not provide an analysis of the REO properties to determine how much or if there was any effect on its market value, as compared to non-REO properties. Since distress sales typically sell below market value a determination of the amount of impact should have been addressed in order to use an REO sale since distressed sales are no longer a major issue in the market. [SR 1-4(a)]

- **Cost Approach:** The appraisal stated that "through a survey of recent land sales within the subject's immediate market area" the value of the subject was determined but did not offer any supporting comparable sales. The appraisal lacked market sales for support for the land/lot value and there was no summary of the information stated. [SR 2-2(a)(viii)]

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

Respondent sent a response to the reviewer's conclusions, addressing each of the bullet points alleged by the reviewer. With regard to the listing history, Respondent acknowledged there was an additional listing, and this was his OA workfile provided to the Commission. This actual listing date fell outside of search parameters set forth in the 1004 UAD form. This listing further supports the fact the subject had been rejected at the list price. Respondent stated that he did his due diligence as the listing was in his workfile. With regard to the neighborhood allegations, Respondent stated he has support for the opinion or property values; demand/supply, and marketing time have support in his workfile for the one-unit housing trends. The OA indicated a 29% increase in the past quarter, however, Respondent also indicated in the report the number of listings and list prices have remained stable, and that although the subject's market numbers have appreciated over the past 12 months, data for the most recent three month period for houses most similar to the subject property in its immediate market has shown a decrease in absorption rates/sales, an increase in listings, and an increase in housing supply. With regard to the site, Respondent stated he provided a photo of the property backing up to a major highway and discussed observing audible traffic noise while inspecting the exterior of the home, as well as no traffic noise was noted during the interior inspection. Respondent stated he further evaluated the influences of the proximity to the highway in his sales comparison analysis. Respondent stated that the lack of time adjustment was addressed in the neighborhood section. Respondent itemized the three land sales considered in the development of the opinion of site value, and his workfile shows a total of 20 land sales that he narrowed down to three. With regard to the reconciliation not being restated in the reconciliation section, Respondent stated this was an oversight in the review appraisal, as it is stated in the OA under reconciliation. Respondent stated the complaint was filed by someone who was not his client and that he used recognized methods and techniques to employ a credible appraisal. Respondent stated that his response indicates that there has been no violation of any other rules cited in the concerns raised by the reviewer.

**Licensing History:** Registered Trainee 1/8/2002-5/25/2004  
Certified Residential 5/26/2004-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found inconsistencies within Respondent's report. Respondent has been a certified residential appraiser for more than 10 years with no prior disciplinary action. 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, as well as a fifteen (15) hour Residential Site and Cost Approach Course to be completed within one-hundred eighty (180) days of execution of the Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Ms. Point made the motion to close with a letter of warning. This was seconded by Mr. Hall. The vote carried unanimously.

## 11. 2014003191

This complaint was filed by a consumer and alleged that Respondent under-valued the subject property by Two Hundred Thousand Dollars (\$200,000).

Respondent sent a response to the complaint stating that the property is taxed way above the market value as established by the appraisal. Respondent does not have an explanation for this. The site value has a difference of \$53,000 within Respondent's report as compared to the assessor's value. Respondent stated he feels that the value error is more in the tax base than the market value, as he has reconciled within the report. Respondent stated that even though the lease was not provided, he used an estimate market income/rent rate to support Complainant's rents as stated in the interview the day of their meeting. Respondent stated he has known the Complainant for a number of years and would have like to appraise the building much higher, but based on the market data and information it was not possible. As shown by the sales and attached photos the subject is not as well maintained and Respondent felt his adjustments were warranted. The subject is a block building with no windows that has limited partitions, and the adjustments were based on Respondent's personal opinions supported by the sales and physical inspection. Respondent feels his reconciled value as concluded is reasonable, supported, and justifiable.

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

- A definition of market value and its source was not located in the report, even though the subject appraisal report indicates that the purpose of this appraisal is "*estimating the market value of the fee simple estate*". It appears that as an assignment condition the appraiser was also required to provide a liquidation value. A definition and source for this value was provided in the report. [SR 1-2(c); SR 2-2(b)(v)]
- Sale #3's sales price was reported as \$232,000 when it should have been \$233,200. The report indicates a sales price of \$232,200 on page 37 of the report and \$232,000 in the grid on page 40. According to the deed found in the workfile the sales price was \$233,200. These numbers appear to be transposed. Mathematically the numbers used in the report would provide a slightly different higher price per foot number, if the sales price on the deed had been used. \$41.44 was shown in the report, and after using the amount on the deed, it would be approximately \$41.65 per square foot. [SR 1-1(c)]
- The report indicates capitalization rate range to be 10% to 11%, but utilizes 10% to 10.5%. [SR 1-1(c)]

**Licensing History:** Certified General 8/13/1992-Present  
**Disciplinary History:** (941760 & 941863-Closed with no action)

**Reasoning and Recommendation:** The reviewer found that the discrepancies noted appear to be an indication that more emphasis should be placed on proofreading. However, the reviewer found that the report contains sufficient information to enable the client and any intended users to understand it properly. Respondent has been a certified general appraiser for over twenty-one (21) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** pertaining to the suggestions for proofreading made by the reviewer.

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

## 12. 2013004981

This complaint was filed by a consumer who was attempting to refinance and alleged that Respondent undervalued a residential property by using inappropriate comparable sales data.

Respondent sent a response to the complaint stating that he did some research into the competing sales in the price range that the borrower's paid for the subject by using the subject's zip code, the twelve-month period prior to the purchase of the subject and the price paid for the subject. The subject and two competing properties resulted from the search. Respondent stated it is evident that the two competing properties are both superior to the subject in terms of design, appeal, and construction. It is, thus, the opinion of the Respondent that the borrowers overpaid for the subject in 2001, as a result of their not being familiar with the real estate prices in Tennessee, as compared to California, where they are from. With that being said, the borrowers found this out when they are now trying to refinance their loan taken out in 2008 on a property that is not worth what they paid for it.

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

- An opinion of exposure time of 60 days was noted on page one of the appraisal report. A contradictory opinion of exposure time of 3 to 6 months was reported on page four of the report. The report further reflects exposure time for the subject property is equal to the indicated marketing time identified in the neighborhood section on page twenty-five of the report. [SR1-1(a); SR 1-2(c), Comment; SR 2-1(a)(b); SR 2-2(b)(v)]
- The appraisal report reflects the present use is the subject's highest and best use but offers no support for this conclusion. A statement was made on page four, but this statement does not summarize the support and rationale for that opinion. This information was not located in the appraisal report or workfile, and if an analysis was not performed by the appraiser in the development portion of the appraisal, then Standard 1-3(b) would also not have been adhered to. [SR 2-2(b)(ix)]
- On page two the report reflects a 3 car garage and a 2 car carport. The floor plan, as well as field notes found in the workfile, reflects a 2-car built-in garage. The report in one section reflects a 3-car garage and a 2-car carport and on page three under the sales comparison approach reflects the 3-car garage only. [SR 2-2(b)(iii)]
- With the indication of "mainly used" it is unclear how the adjusted sales priced were reconciled in the opinion of value stated. Clearly equal weight was not utilized with either grouping of sales. [SR 1-6(a); SR 2-2(b)(viii)]
- The reconciliation does not indicate how the final value opinion was developed from the wide range of adjusted sales and list prices of the comparable sales used in the sales comparison approach. Adjusted sale prices ranged from \$130,650 to \$181,280 in the Respondent's report and \$138,455 to \$182,385 in the Complainant's report. The reconciliation section does not reflect the sales comparison approach was given more weight but again there is no rational or recognized technique indicated in how the final opinion was arrived. [SR 1-6(b); SR 2-2(b)(viii)]
- There was no support for the land value opinion. On page four of the report, the Complainant issued the land value opinion is reflected as \$30,000. Respondent listed the land value as \$38,000. In either case no reconciliation of information was found to support said value(s). [SR 1-1(a)(b)(c); SR 1-2(e); SR 1-3(a); SR 1-4(b); SR 1-6(a); SR 2-1(a)(b); SR 2-2(b)(viii)]

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

Respondent sent a response to the reviewer's conclusions stating that he is aware of the potential USPAP violations noted by the reviewer, as he had another complaint filed against him about the same time, just months apart, and that led to him paying a civil penalty and completing two education courses, "Residential Site Valuation and Cost Approach" and "Residential Report Writing". Respondent stated that from attending these courses, he is aware of and understands how to avoid these potential violations in future reports. Respondent asked in his response that the Commission not fine him again nor require further education courses, as he is having a difficult time financially due to a very slow start to his business, which has put him behind. In his response, Respondent is referring to complaint 2013007511, which was filed in 2013 and dealt with an appraisal conducted by him in December 2012.

<b>Licensing History:</b>	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 Consent Order imposing a 15 hour USPAP Course and a 30 hour Procedures Course

**Reasoning and Recommendation:** The reviewer found that the data included in Respondent's appraisal and workfile is inconsistent and lacks USPAP compliance in specific areas. The Respondent has had disciplinary action taken against him in the past. As such, Counsel recommends a fifteen (15) hour Residential Report Writing 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.

**Note:** Mr. Hall made the motion to close with a letter of caution. This was seconded by Ms. Johnson. The vote carried unanimously.

### **13. 2014008341**

This complaint was filed by an Appraisal Management Company and alleged that Respondent provided an appraisal which is misleading to the reader and lacking credibility. Complainant alleged the subject property is currently a 2 unit multi-family dwelling; however Respondent indicates the highest and best use would be as a single family renovated dwelling and appraises the home as a single family home utilizing all single family properties as comparable sales; thus, misleading the reader.

Respondent filed a response to the complaint stating that he firmly disagrees with Complainant's accusations and assertions that he has not supported the subject's highest and best use. Respondent stated that the subject area is a very hot real estate market. The land values in this market have increased to a point that many older smaller homes are purchased at or above their market value for the land. Those homes with the R or Rm zoning allow for multiple dwellings on one site. The properties with RS (single family only) zoning in the market have a multi-family overlay, which if the lot size is big enough, allow for two units built on split lot. The subject is a perfect candidate for removal or major renovation with addition. Respondent stated he has addressed all the questions and concerns from the lender in the original appraisal.

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

- There is much inconsistency in the way in which the subject property is described and identified in the appraisal report. On the front page of the URAR form, the subject is described as a one-unit structure with an accessory unit; the appraisal is written on a single-family residential appraisal report form. The condition of the property is set forth as, "The subject is set up as a duplex and has two electrical meters." The highest and best use is described as a duplex/ rental home with two apartments. The report goes on to indicate that the current use is an interim use and that the future highest and best use is as a larger square footage single family home. Later, under the same heading, the report states that the current interim use is as a single family rental property with an accessory unit.
- Page 2 of the appraisal indicates that the property is being appraised in as-is condition. As such and for purposes of this assignment, there are no plans to change the existing floor plan, convert the property to single-family use, or to modernize the property features and amenities. Based on the current floor plan and use, the subject is a two-unit income producing property and is not being properly described when indicated as a one-unit structure with an accessory unit. Such a description is considered, by the reviewer, as misleading and not meaningful for the intended use. By not properly describing the subject, the credibility of the entire report is questionable.

- The subject is rented as of the date of the appraisal. There is nothing in the report, nor in the workfile, that discloses any analysis of current leases or rental agreements related to the subject. The absence of this information and analysis is misleading since the appraiser indicates that property rights being appraised are fee simple but current leases could support the need for a leased fee analysis.
- No income approach to value is performed and, in fact, the report states that, “due to a lack of single-family sales data, the income approach was deemed inappropriate.” The assessment that the subject is a single-family property is misleading and has led to the omission of the income approach. The income approach is necessary, in this case, for credible assignment results.
- With regard to highest and best use, the report is submitted as an as-is value opinion, but the report conclusions are based on a “subject-to analysis” that the improvements have been converted to single family use.
- No plans or specifications are found in the appraiser’s workfile to suggest that any proposed improvements were to be considered in the appraisal assignment.
- Highest and best use requires two separate analyses: as-improved and as-vacant. The appraisal report did not distinguish between these two analyses, but combined them into one conclusion.
- The appraisal report provides a site value opinion but does not have a specific highest and best use analysis as-vacant. This is the place where proper discussion should be made regarding new construction or new development of the site.

**Respondent’s Response to Reviewer’s Conclusions:**

Respondent sent a very lengthy response to the reviewer’s conclusions, stating that he did not complete the highest and best use analysis in the proper format. Respondent stated his analysis needs improvement in the set up and discussion, and he has already taken steps to improve not only his procedure and analysis but also his understanding of the entire process. Respondent stated he will be signing up for the Appraisal Institute course on review of the highest and best use in August. Respondent also stated that he disagrees with the reviewer’s opinion of the property not being properly described. Respondent stated he described the access to the upstairs from both the interior hallway and outside porch. This property was designed to accommodate either a single family or a single family with an accessory/rental on the upper floor. This is possible due to the access/design and is stated under Additional Features. Respondent stated that the income approach is based on GRM, when there are no rental sales, you cannot determine or complete the income approach. Respondent stated his wording was inappropriate but accurate as the homes that sold had no rental information available to determine a GRM. The report was based on the “as is” value due to the limited need for any conversion. Respondent stated he did make an error by not describing the functional utility adjustment, which was applied to cover the cost or removing one electric meter and any additional minor repairs or changes required by a reviewer, i.e. capping off the 220 electric plug for a range/oven, etc. Respondent stated that the reviewer is correct, in that Respondent failed to provide two separate highest and best use analyses. The information was there, but not broken down separately showing “As Vacant” and “As Improved”.

**Licensing History:** Certified Residential 1/10/1992-Present

**Disciplinary History:** (2008-Dismissed; 201200449-Dismissed)

**Reasoning and Recommendation:** Respondent has been a certified residential appraiser for over twenty-two (22) years with no prior disciplinary action against him. As such, Counsel recommends the authorization of a civil penalty in the amount of One-Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made the motion to close with a letter of warning. This was seconded by Ms.



Johnson. The vote carried unanimously.

**14. 2014001251**

This complaint was filed by an Appraisal Management Company and alleged undue influence. An employee of the lender requested that Respondent change an appraisal submitted to the AMC from 4 bedrooms to 3 bedrooms because one of the rooms was illegal for the existing septic system. Complainant AMC alleged this change was misleading to the intended users, the lender and the AMC.

Respondent did not file a response to the complaint with this office.

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

- Given the subject utilizes a subsurface sewage disposal system (septic) and the appraiser was obviously aware of this as indicated in the original and revised report, the appraiser should have confirmed, and/or attempted to, with the appropriate local/state agencies or offices regarding the permitted density of the septic and dwelling. If confirmation of the permit was not available, at a minimum, disclosure of the lack of confirmation and discussion regarding the number of bedrooms or potential bedrooms of the dwelling in relation to the septic system should have been provided. Another option would have been to apply the appropriate assignment condition (extraordinary or hypothetical) regarding the septic system in relation to the number of bedrooms, and base the report on which method was chosen to accurately report the property characteristics. [SR 1-1]
- Neither the subject's physical nor legal characteristics or attributes were adequately described and discussed in regard to the number of bedrooms or rooms and their use, marketing of the property and number of bedrooms, approved density of the septic system and its impact based on local and state criteria, legal use and number of bedrooms based on permitting, etc. [SR 1-2]
- The appraisal report (both versions) indicates the subject conforms to a supplemental standard of the clients regarding HUD/FHA minimum property standard guidelines; this statement implies the subject meets all septic system requirements for the property as appraised. The first version indicates the subject is a four bedroom dwelling and appears permitted as such, when that was later discovered to not be true. The second or revised version indicates the subject is a three bedroom dwelling when it was constructed with four bedrooms, appears to have been marketed as such and the septic system permit was only for three bedrooms. [SR 2-1]
- The appraisal report indicates an opinion of highest and best use was developed by the appraiser; however, the discussion of highest and best use does not adequately summarize the support and rationale for the opinion. The very brief, one sentence statement that is given, is inadequate. No detail is given regarding the analysis, support or rationale for the highest and best use of the site as vacant or arriving at the highest and best use as improved opinion. [SR 2-2]

**Licensing History:** Certified Residential 10/14/1993-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** Overall, the reviewer finds this appraisal to be satisfactory and acceptable with regard to general appraisal practices and methodology, and procedures were followed with credibility, but with some deviation. In general, the reviewer found the report to be in compliance with the intent of USPAP; however, the noted deficiencies with regard to USPAP indicate that all minimum standards of USPAP have not been met. Respondent has been a certified residential appraiser for over twenty (20) years with no prior disciplinary action against her. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the USPAP deficiencies noted above.

**Vote:** Mr. Johnstone made the motion to close with no further action. This was seconded by Mr. Walton. The vote carried unanimously.

**15. 2014000771**

This complaint was filed by a fellow practitioner and alleged that Respondent communicated a misleading report and handled the adjustments incorrectly, based on determination by the Respondent of the floor plan arrangement.

Respondent sent a response to the complaint, along with the complete workfile as requested. Respondent stated that the subject property is a single family home with living quarters for extended family as noted in the two prior MLS listings and the courthouse retrieval system. To ensure uniformity in the sales comparison analysis, the subject home is best described as a traditional 2 story with a basement.

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

- Identifying and comparing the subject dwelling as a two-story is a violation of Standards Rule 1-1. [SR 1-1]
- The subject's design and floor plan in relation to site grade were not properly treated nor addressed and discussed in the original submission of the appraisal report. The chosen method of identifying square footages above and below grade leads to a misleading report and violates Standards Rule 2-1. [SR 2-1]
- The report format is one that meets the criteria of Standards Rule 2-2 and must prominently state the report option: Appraisal Report. While an appraiser may use another label in addition to this one, nothing can be used in place of it. The appraisal is labeled Summary Report, but does not contain the correct required report option. [SR 2-2]
- The appraisal report indicates an opinion of highest and best use was developed by the appraiser; however, the discussion of highest and best use does not adequately summarize the support and rationale for the opinion. The brief, one sentence statement that is given, is inadequate. No detail is given regarding the analysis, support or rationale for the highest and best use of the site as vacant or arriving at the highest and best use as improved opinion. [SR 2-2]

**\*Addendum**

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

Respondent sent a very brief response to the reviewer's conclusions, stating that she received the notice of violations containing the reviewer's conclusions and that she is taking measures to remedy any violations.

<b>Licensing History:</b>	Licensed RE Appraiser	12/31/2000-11/24/2002
	Certified Residential	11/25/2002-Present

**Disciplinary History:** (200707661-Dismissed; 201000273-Closed w/ Letter of Warning)

**Reasoning and Recommendation:** Overall, the reviewer finds the appraisal to be deemed satisfactory and acceptable with regard to general appraisal practices and methodology and procedures were followed with credibility, but with some deviation, as noted above. In general, the report appears to comply with the intent of USPAP. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the deficiencies noted by the reviewer.

**Vote:** Mr. Johnstone Hall made the motion to accept counsel's recommendation. This was seconded by Ms. Point. The vote carried unanimously.

**16. 2014008301**

This complaint was filed by an Appraisal Management Company and alleged that Respondent provided an appraisal that is misleading to the intended users of the report. Complainant alleged

that Respondent used a combined sale for comparable sale #3 in the report, which is a clear violation of certification #8 which states Respondent has not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.

Respondent sent a response to the complaint stating that after further research, it was determined that comparable sale 3 was not an arm's length transaction. This was shown in MLS as a sale of a new construction home and courthouse retrieval system is typically slow in updating sale transactions, especially new construction. Respondent stated that looking back, he should have requested a copy of the HUD form to verify but again, he misunderstood his conversation with the agent. Respondent stated it was never his intention to mislead any reader or user of this report. Because of this situation, Respondent stated he has added new procedures on every report.

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

- Site Value: The site value opinion is indicated to be \$195,000. Land sales from the subject development and two other developments are noted in the workfile. The sale price and list price range for these properties is \$137,250-\$319,900. There is no rationale or statement of reconciliation provided in the report to support how the appraiser arrived at the estimated value of \$195,000. [SR 2-2(a)(viii)]
- The subject has a site size of approximately 0.60 acres; sale 3 has over 1 acre. No adjustment is made for this comparable sale though the site is almost double in size of the subject. A \$100,000 site adjustment is made to sales 4 and 7, though they are basically the same size as the subject. A general comment is made regarding this adjustment, but no specific data is provided in the report to support the adjustment. Adjustments are made to each of the active listings for what appears to be a sale to list price ratio adjustment; however, this is not explained or supported in the report. Many adjustments are made in the sales comparison approach; no adjustments are explained or supported. [SR 2-2(a)(viii)]
- Reconciliation: An insufficient reconciliation is found in the sales comparison approach to value. The property is appraised for \$1.7 million; there is no summary of support or reconciliation found anywhere in the report. [SR 1-6(a); SR 2-2(a)(viii)]
- Market analysis: Since the 1004MC form is only partially completed, there is insufficient data included in the analysis to support trend conclusions. No additional market analysis is found in the report to support the market analysis statements. [SR 1-3(a), line 576-577]
- Sale 3 was listed in the local MLS as a closed sale, but in reality, it was a land sale that resulted in the buyers building their own house on the lot. The MLS incorrectly identified the property as an improved sale, and the appraiser used it as such without proper verification. [SR 1-1(c), Line 511-512]

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

Respondent sent a response to the reviewer's conclusions stating that it was never his intention to mislead any reader or user of this report, he simply misunderstood his conversation with the agent and thought this was an arm's length transaction. The days on market on the MLS also led him to believe the property was exposed to the open market, when it actually was not. This was shown in MLS as a sale of a new construction home and CRS is typically slow in updating sale transactions, especially new construction. Based on MLS, this property had a days on market of 405 days. Once it was brought to his attention, he researched the sale further and realized that this was not an arm's length transaction and that he had misunderstood the conversation with the agent.

Respondent stated he regrets the confusion and has learned a valuable lesson in the verification process that he believes will only benefit him in the future. Because of this situation, he has added new procedures on every report. These procedures include not only verifying sales on CRS, but looking at the local property assessor's web sites and/or other various web sites as well as calling the local register of deeds in an attempt to confirm the sale. Respondent asks that his clean

disciplinary action record be taken into consideration, as it was not his intent to mislead the reader or user of this report.

**Licensing History:** Certified Residential 5/13/1993-Present

**Disciplinary History:** (200706975-Dismissed)

**Reasoning and Recommendation:** The reviewer concluded that the quality of the appraiser's work under review to be deficient in its compliance with USPAP. The end result is a report that is not meaningful to the intended use and that limits the credibility of the assignment results. As such, 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 Residential Report Writing Course to be completed within one-hundred eighty (180) days of execution of the Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Walton made the motion to close with a letter of warning. This was seconded by Mr. Hall. The vote carried unanimously.

### **17. 2014006061**

This complaint was filed by a consumer and alleged the under-valuing of the subject residential property by not including the improvements that were made to the property.

Respondent sent a response stating the original house was built in 2000, which today would make it fourteen (14) years old. The report from 2014 shows an effective age of ten (10) years. The ten (10) year effective age was used in the cost approach and in the sales comparison grid. The two additions have made the subject residence larger than most of the other residences in the subdivision.

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

- Research and analysis of the described market areas indicated "declining values" from the neighborhood boundaries stated on page 1, instead of stable as reported. Also, "demand/supply" and "marketing times" are misstated, in fact, the research indicated shortage and under 3 months based on the same analysis. The appraisal does not offer support for the opinion of market conditions, or for the one-unit housing trends. [SR 1-3(a); SR 2-2(viii)]
- The description lacked detail and specifics of the amount and type of renovations, remodeling and addition/s added to the subject property. This leads the intended user to a different conclusion/s based on the limited detail of the owners stated renovations, i.e.: in the past two years, the owner added a 20'x20' dining room addition, with an extended roof line to make the new covered deck; the kitchen was remodeled with granite countertops, new wood flooring and additional matching cabinets at a cost of \$38,000. [SR 1-2(e)(i); SR 2-2(a)(viii)]
- The appraisal lacks analysis and support on page 1 for market conditions, i.e.: property trends, supply/demand and marketing time, no date of sale/time adjustment was applied. No analysis of comparison was done of the condition of the comparable sales as compared to the subject's improvements. The appraiser incorrectly reported the number of days that comparable sales were on the market. [SR 1-1(a); SR 1-3(a); SR 1-4(a); SR 1-6(a)(b); SR 2-2(viii)]
- The appraisal does not support an "opinion of site value". The appraisal does not offer any comparable land/lot sales or analysis of land/lot sales supporting the opinion of value. [SR 1-1(a); SR 1-4(b)(1); SR 1-6(a)(b); SR 2-2(a)(viii)]

#### **\*Addendum**

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

Respondent sent a response to the reviewer's conclusions, addressing each of the bullet points found by the reviewer. With regard to bullet number 1, in which the reviewer stated there were indicated "declining values" and a shortage in "demand/supply" and a marketing time of less than 3 months, Respondent stated it seems odd to him to have declining values and a shortage of supply at the same time. Respondent stated he would think they would move in opposite directions. Respondent attached the activity report for 2013 from MLS; the subject county has seven MLS zones, and the subject is in zone 75. The average days on the market was 101 and the median is 89. Respondent stated that in the report, the average number is used. With regard to bullet number 2, the report shows both bath and kitchen has been replaced. Respondent admitted he should have gone into more detail about the recent addition. This house has had two additions making it larger than most residences in its subdivision. With regard to bullet number 3, Respondent stated the actual age of the original subject is 14 years, the report lowered the effective age to 10 years; in reviewing the report, Respondent stated he should have used an effective age of 5 years. He prefers to make an age adjustment instead of a condition adjustment. Sale #1 is 9 years old and Sale #2 is 10 years old, no age adjustments were made to these two sales. Sale #3 is 3 years old and an age adjustment was made versus the 10 year effective age. The sales were recent in time, so no time adjustment was needed. With regard to bullet number 4, Respondent stated the site value came from tax records and any knowledge and experience. Respondent stated he has been in the real estate business for 40 years, and he thinks his longevity in this market area should be given some merit.

**Licensing History:** Certified General 11/27/1991-Present

**Disciplinary History:** (200317235-Closed with Letter of Warning)

**Reasoning and Recommendation:** The reviewer found several USPAP deficiencies within the appraisal report that warrant disciplinary action. As such, 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 a fifteen (15) hour Residential Report Writing Course to be completed within one-hundred eighty (180) days of execution of the Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made the motion to close with a letter of warning. This was seconded by Mr. Johnstone. The vote carried unanimously.

**18. 2014007581**

To be presented later by counsel's request.

**19. 2014008181, 2014008182**

This complaint was filed by the administrative staff for the Tennessee Real Estate Appraiser Commission, to investigate the possibility that the reports submitted by a registered trainee in an experience review were not compliant with USPAP. These reports were initially reviewed by Mr. Walton who then requested the reports be reviewed by contracted reviews as the issues identified with the reports appeared numerous on initial reviews. While reviewing Respondent's appraisals, it was noted that there existed readily identifiable deficiencies within two (2) of the three (3) appraisals, so much so that it did not even seem necessary to review the third appraisal. Research was done to confirm that all of the photos used were MLS photos (not one original comparable photo was used in either report reviewed). Numerous deficiencies were noted in both appraisals, and the reviewer's concerns were such that additional investigation was warranted.

**Report #1**

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

- Listing history was not properly analyzed. The report indicates that the subject property was not currently offered for sale nor had it been for sale in the twelve months prior to the



effective date. This is inconsistent, as the property was currently under contract. There was no explanation provided as to how the property was being sold without being exposed to the market. [SR 1-5(a)]

- Sales comparison information was not adequately presented or analyzed. There were unsupported adjustments and no clear analysis or conclusions presented. There is also an indication the signing appraiser has not correctly employed recognized methods and techniques. [SR 1-1(a)(b); SR 1-4(a); SR 2-2(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 not completed by an appropriate appraisal method or technique. [SR 1-4(b)(i)]
- Cost approach was not supported. The report lacks the information and analysis necessary to understand the reasoning behind the formulation of the depreciation indication, the cost figures used, as well as the final conclusion. The reviewer found no supporting information or analysis in the report supplied by Respondent that would allow the reviewer to recreate the cost approach nor does it appear that the recognized techniques or methods have been employed. [SR 1-1(a)(b)(c); SR 1-4(b)(ii)(iii); SR 2-2(b)(viii)].
- Reconciliation does not address the quality or quantity of data used in the approaches to value. [SR 1-6(a); SR 2-2(b)(viii)]
- The report noted in the final reconciliation that a trainee contributed significantly to the analysis of the report. This person was not recognized in the subject report's certification. [SR 2-2(b)(vii); SR 2-3]

## **Report #2**

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

- The intended users were not properly identified. It is noted that there is an FHA case number provided and commentary that indicates the report has been completed in accordance to FHA guidelines. FHA requires that they be identified as an intended user of the report. [SCOPE OF WORK RULE; SR 1-2(a); SR 2-2(a)(i)]
- Subject information was not correctly reported. [SR 1-1(b); SR 1-2(e)(i); SR 2-1(b)]
- Neighborhood boundaries are not adequately or reasonably defined. There is a lack of consistency in the analysis of the factors that affect neighborhood/market area marketability. The market area trends were not adequately or reasonably discussed or analyzed. [SCOPE OF WORK RULE; SR 1-1(a)(b)(c); SR 1-2(e)(i); SR 2-1(b); SR 2-2(a)(iii)]
- The report contains conflicting information about upgrades and updates. The report states, "No updates in the prior 15 years," and then notes, "The subject property has had some upgrades: granite countertops, stainless steel sink and faucet, new light fixtures, hardwood floors." This is conflicting information. [SR 1-2(e)(i); SR 2-1(b); SR 2-2(a)(iii)]
- Some of the methods presented in the sales comparison approach have not been correctly employed. There is no evidence in the report or workfile to indicate the signing appraiser has performed this assignment in compliance with the required scope of work. [COMPETENCY RULE; SCOPE OF WORK RULE; SR 1-1(a)(b); SR 1-2(h); SR 2-1(a)(b); SR 2-2(a)(vii)]
- No supporting information was found in the report or workfile information provided, indicating that the opinion of site value was not completed by an appropriate appraisal method or technique. [SR 1-4(b)(i)]
- Cost approach was not supported. The report lacks the information and analysis necessary to understand the reasoning behind the formulation of the depreciation indication, the cost figures used, as well as the final conclusion. The reviewer found no supporting information or analysis in the report supplied by Respondent that would allow the reviewer to recreate the cost approach nor does it appear that the recognized techniques or methods have been employed. [SR 1-1(a)(b)(c); SR 1-4(b)(ii)(iii); SR 2-2(b)(viii)].
- The reconciliation does not reconcile quality and quantity of data used in the approaches to value. The sales comparison approach was given the most weight in the final opinion of

value but does not provide sufficient reporting and analysis to support opinion and conclusions. The appraisal results have not been conveyed in an appropriate manner reducing the credibility of the report. [SR 1-6(a); SR 2-2(a)(viii)]

- The report noted in the final reconciliation that a trainee contributed significantly to the analysis of the report. This person was not recognized in the subject report's certification. [SR 2-2(b)(vii); SR 2-3]

### **Report #3**

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

- Listing history was not adequately reported. [SR 1-5(a); SR 2-2(a)(viii)]
- The contract was not properly analyzed. The report states, "*Non-arm's length sale; the terms appear to be typical with no unusual or extraordinary provisions.*" This comment is inconsistent. The workfile revealed a copy of the contract, which seemed to indicate this to be a normal sale. The contract information has not been presented or analyzed in a meaningful manner. [SR 1-5(a); SR 2-2(a)(viii)]
- Market area trends were not adequately discussed or analyzed. [SCOPE OF WORK RULE; SR 1-2(e)(i); SR 2-1(b); SR 2-2(a)(iii)]
- Relevant characteristics about the improvements have not been adequately discussed or analyzed. The zoning classification noted in the report was "RS". Based on the city zoning map that classification should have been R-1, city/low density residential district. [SR 1-2(e)(i)]
- The sales comparison information has not been reasonably presented. The sales under review were not in the identified neighborhood/market area described in the report. No discussion or analysis was provided addressing the location of the sales. The photos utilized looked very similar to the photos in MLS. The signing appraiser did not complete the assignment according to the agreed scope of work. [SCOPE OF WORK RULE; SR 1-1(a); SR 1-2(h); SR 1-4(a); SR 2-1(a)(b); SR 2-2(a)(viii)]

As a result of the deficient appraisals, a complaint was opened against Respondents, administratively, and the Respondents were given an opportunity to respond to the complaint. The Respondents stated that with regards to the three reports reviewed, there are some errors on page 1 of the report, the trainee's name and information is not in the correct location of 2 reports and FHA was not included as an intended user on the FHA report. All of the comments and suggestions of the review appraiser have been read and accepted, some have been adopted by Respondent's office as part of daily practice. With regard to condition rating, Respondent stated her view differs from that of the reviewer. It is Respondent's normal practice to use the C4 mainly when repairs are needed, and this seems to be acceptable in Respondent's area. Photos of all subject properties are original photos with interior photos as originals also. Respondent stated her MLS will not allow the copying of photos. Site values are taken from recent sales within the subject's neighborhood or by use of the allocation and extraction method. Improvements are based on recognized cost services, contracts to build and appraiser's database. External depreciation is based on a search in MLS. Respondent supervisor stated that the errors made in these reports are her responsibility and those changes in the analysis and reporting of the appraisals has already begun. Additional continuing education classes have been registered for. Respondent asks the Commission to consider her good standing with the state when making a decision regarding the USPAP violations.

#### **Licensing History:**

<b>Respondent Supervisor</b>	Registered Trainee	6/6/2003-4/17/2006
	Certified Residential	4/18/2006-Present

<b>Respondent Trainee</b>	Registered Trainee	6/8/2003-Present
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#### **Disciplinary History:**

<b>Respondent Supervisor:</b>	201102521-Closed with Letter of Warning
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**Respondent Trainee:** None

**Reasoning and Recommendation:** The trainee and supervisor were registered within days of each other back in 2006 and at one time were under the same supervisor. This may indicate that the supervisor and trainee had incomplete training back in 2006. Staff and legal counsel recommend both the supervisor and the trainee complete a fifteen (15) hour Residential Report Writing course within 180 days. The trainee must complete this course before 3 new reports can be selected from an updated experience log for experience audit. A thirty (30) hours Basic Appraisal Procedures course and/or a fifteen hour Residential Site Valuation and Cost Approach course may be advisable.

**Vote:** Mr. Hall made the motion to accept counsel's recommendation and allow classes to be used as continuing education up to hours allowable. This was seconded by Ms. Johnson. Mr. Walton recused himself from the vote, which carried unanimously.

**20. 2014012221**

To be presented later by counsel's request.

**21. 2013009201**

**RE-PRESENTATION**

This matter is being re-presented from the May 2014 Commission meeting. During this meeting, after hearing the facts, the Commission voted to authorize a One Thousand Dollar (\$1,000) civil penalty, along with a fifteen (15) hour USPAP Course and a thirty (30) hour Procedures Course. The facts of the matter recently presented at the May meeting are as follows:

This complaint was filed anonymously and alleged that Respondent's report included the highest and best use of the land as a proposed assisted living facility, and the land could not be legally used for that purpose. There was no mention of the current zoning or mention that the land must be rezoned. The income approach data was prepared by Cecil McNatt's, not market rates. The Complainant alleged that the financial loss to the company exceeded \$200,000.

Respondent filed 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.

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

- Two prospective values were provided (real property and going concern), but no proposed completion date was provided. The market value at completion is a prospective value as is the going concern value. The effective dates of those values should be future dates, not the current date.
- The report does not include an analysis of the pending purchase price compared to the concluded value as required by USPAP in the reconciliation portion. [SR 1-5(a) & (b)]
- The report omits any discussion and/or conclusion of exposure time. [SR 1-5 (a) & (b)]
- The legality of the planned use should have been verified by the appraiser with the zoning authority. Then an extraordinary assumption could be included if it was determined the current zoning would not permit the proposed improvements.
- A very brief description of the proposed improvements is included in the report that includes only the size of the building and number of units with sizes and some amenities. The only other description is a floor plan and elevation. No description of the type of construction or other building physical construction is included.

- The area or market review is limited to a few pages of published data. There is no analysis in the report.
- The report contains no analysis of highest and best use.
- The report contains no analysis of the sales, other than price per acre. There is no discussion regarding comparability or planned uses, zoning, topography, location, etc. Typically, there is an inverse relationship between size and unit prices. This should have been addressed. The report contains no support for the concluded value of \$50,000 per acre.
- Marshall and Swift was the basis for calculating replacement cost for the subject. The indicated cost per square foot between good (\$96.08) and excellent (\$118.14) was utilized. If these costs are utilized, the cost for elevators must be deducted. The elevation included in the report indicates a one-story building. The elevator adjustment was not included in the calculation. In addition, an adjustment for size is required, but omitted. Both costs include all cabinetry and kitchen equipment; ready for occupancy. However, the cost for fixed kitchen, security and fire equipment has been added at \$75,000 (no explanation where these costs came from), and the cost for 32 kitchenettes has been added. In the absence of explanations or discussions to the contrary, these are not appropriate adjustments. The cost developed in this report appears to be inflated significantly. The value conclusion does not appear to be credible.
- The information regarding the two properties in the sales comparison approach (improved) is very limited. Two sales (one nine years old) is not adequate support for this approach for this type property. Sales of these type facilities are not scarce. Greater effort spent seeking sales of other facilities from other parties would have been beneficial. Without additional information or analysis, this approach and the conclusion do not appear to be credible.
- The rental income approach might be applicable if all units were the same. The report contains no information from developers and owners of other similar properties as stated, and there was no such information or support included in the workfile information provided. A market survey should have been included to lend support for the concluded "market" rents.
- The bases for occupancy rates assumptions are not provided. No market survey is indicated to support the assumptions. The report does not provide a market analysis of a projected absorption rate. There is no support for the concluded 75% occupancy the first year.
- The report and workfile contain no information regarding expenses that have been taken from the appraisal of other similar facilities. Since previous appraisals were referenced, they should be part of the workfile if the information is not to be included in the report. The report contains no information regarding property tax rates, tax surveys, or projected valuation by the county tax assessor.
- In the discounted cash flow analysis, there is no provision for deferred or lost income during the construction period. This DCF discounts to the point of completion. The resulting value(s) should be discounted back to the date of appraisal or another adjustment applied. The report does not include a projected construction period. The DCF does not provide for some form of inflation of expenses for years 2-5.
- The appraisal states, "Under USPAP Guidelines this is a summary report." However, due to almost complete lack of descriptions, analyses, and other information and discussions, it is more likely this would be considered to be a Limited Use Report.

**Licensing History:** Certified General 10/04/1991-Present

**Disciplinary History:** (241752-Closed with no action; 200312206-Dismissed)

**Reasoning and Recommendation:** Due to the lack of information, errors, and discrepancies in this report, Counsel recommends the authorization of a Five Hundred Dollar (\$500) civil penalty to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

After sending the Consent Order out to Respondent, he requested an informal conference with Executive Director Avers and me, which was granted and held on July 1, 2014. During the conference, we discussed the stipulated facts of the Consent Order. Respondent suggested that the appraisal was intended to be a Summary Report but suggested the reviewer was incorrectly reviewing it as another type of report. Respondent admitted that he did not do enough in the way of disclosing and analyzing certain information within the report but also disputed several of the facts and USPAP sections cited by the reviewer within the Consent Order. As a result of the informal conference, Respondent, legal counsel, and the Executive Director came to an agreement as to certain language within the Order that could be stricken. We also came to an agreement as to certain USPAP sections cited by the reviewer that could be stricken from the alleged violations. Such language consisted of language regarding the area or market review being limited to only a few pages of published data. Respondent had included a brief description, and the reviewer had not included any USPAP violations attached to this. We also agreed to delete language from the Order stating that the cost developed in this report appeared to be significantly inflated and that the value conclusions did not appear to be credible. This appeared to be the opinion of the reviewer, rather than based in factual evidence.

**New Recommendation:** In lieu of the previously authorized discipline, Counsel recommends the authorization of a Five Hundred Dollar (\$500) civil penalty, along with a fifteen (15) hour USPAP Course, based on the language and USPAP violations that could be stricken from the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Johnstone made the motion for a civil penalty in the amount of five hundred dollars (\$500) and a thirty hour (30hr) Procedures course. This was seconded by Ms. Point. Mr. Walton recused himself from the vote, which carried by majority with Mr. Hall in opposition.

In addition to the legal report, counsel also read a letter from an appraiser/licensee, requesting that the commission grant more time to comply with the terms of a consent order because of poor health.

**Vote:** Mr Hall made the motion to:

- Grant a six (6) month period of time to complete the education after which the license could be reinstated, and
- Grant six (6) more months after being reinstated to pay the order or revert to a suspended license.

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

## **REPORT OF EXPERIENCE INTERVIEWS**

**Pamela G. Stanko** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Ms. Point was the reviewer and recommended that her experience request be granted. Mr. Hall made a motion to approve the request. This was seconded by Mr. Walton. The motion carried unopposed.

**Andrew C. Langley** 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. Ms. Point made a motion to approve the request. This was seconded by Ms. Johnson. The motion carried unopposed.

**Amanda K. Covington** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Walton was the reviewer and recommended that her experience request be granted. Ms. Point made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.



**William T. Vandever** 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. Walton made a motion to approve the request. This was seconded by Ms. Johnson. The motion carried unopposed.

**Thern Newbell** made an application to upgrade from a certified residential real estate appraiser to a certified general real estate appraiser. Mr. Johnstone was the reviewer and recommended that his experience request be granted. Mr. Hall made a motion to approve the request. This was seconded by Ms. Point. The motion carried unopposed.

### MAY 2014 - EDUCATION COMMITTEE REPORT

Director Avers reviewed the course submissions and read her recommendations into the record as below:

Course Provider	Course Number	Course Name	Instructor	Hours	Type	Recommendation
Allterra Group	1759	On-Line Appraisal of Single Family Residential New Construction	D. Phillips	7	CE	Approve
IRWA	1761	Eminent Domain Law Basics for Right of Way Professionals - 803	R. Schrieber	16	CE	Approve
Appraisal Institute	1762	Review Case Studies - General	S. Coleman	32	CE	Approve
ASFMRA	1766	Timber Property Valuation	M. Lewis	8	CE	Approve
NBI, Inc.	1767	Practical Guide to Zoning and Land Use Law	G. A. Dean, J. B. Echols, S. H. Edwards	7	CE	Approve
The Columbia Institute	1769	Appraisal Summit & Expo, No. 214	G. Harrison & guest speakers	14	CE	Approve
The Columbia Institute	1770	Appraisal Summit & Expo, No. 214A	G. Harrison & guest speakers	14	CE	Approve
The Columbia Institute	1771	New Construction – A Residential Valuation, No. 152	D. Jacob, B. Boarnet T. Anderson, A. Brown, B. Reynolds	8	CE	Approve
The Columbia Institute	1596	Focus on the Workfile, No. 048	D. Jacob, B. Boarnet T. Anderson, A. Brown, B. Reynolds	5	CE	Approve

#### Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Clare B. Norris (CR 3075)	IAAO	Income Approach to Valuation	33	CE	Approve
Wesley L. Butler (TR 5004)	KY Real Estate Appraisers Board	15Hr USPAP course	15	QE	Approve

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

### ELECTION OF OFFICERS

Ms. Point made the motion to nominate Mr. Johnstone as Chairman and Mr. Walton as Vice Chairman. The motion was seconded by Ms. Johnson. The motion carried unopposed.

### DIRECTOR'S REPORT

In the findings from the distance education survey, Director Avers shared that 176 appraisers responded to the survey relating to on-line qualifying and continuing education. The results were charted by the number of responses to each question and charted as a graph. While most

agreed that on-line continuing education was a desirable choice, qualifying education in a classroom setting got the majority response. Most appraisers agreed that on-line continuing education was sufficient for appraiser competency and professionalism. The primary consideration for taking on-line continuing education and qualifying education was the quality of content.

The reviewer letter as requested at the last meeting had been completed and reviewed by Mr. Green.

Rules from the January 2012 rulemaking hearing had been posted on the Secretary of State's website and would become effective on August 21<sup>st</sup>, 2014, while the rulemaking hearing for 2015 would likely be held in September because of a delay in the Attorney General's office review.

Director Avers ended the report with the current budget information and licensing numbers.

Before the meeting adjourned, Mr. Green thanked the commission members and staff for their support as he felt this could be his last meeting if he got notice from the Governor.

Mr. Hall thanked Mr. Green for his service to the commission.

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Having no further business, Chairman Johnstone adjourned the meeting at 3:00 p.m.