



**REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243  
615-741-1831**

**Meeting Minutes for November 28th, 2017  
Conference Room 1B  
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on November 28<sup>th</sup>, 2017, in the first floor conference room 1-B of the Davy Crockett Tower in Nashville, Tennessee. Rex Garrison called the meeting to order at 10:05 a.m. and the following business was transacted:

**BOARD MEMBERS PRESENT:** Rex Garrison, Mark Johnstone, Jason Bennett, James Atwood, Rosie Johnson (by teleconference) and Dr. Warren Mackara (by teleconference)

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Sarah Mathews, Robyn Ryan, Erica Smith, Lillian Watson and Dennis O'Brien.

**NOTICE OF MEETING / STATEMENT OF NECESSITY**

Commissioner Rex Garrison agreed to chair the meeting and called it to order at 10:05am. He then read notice of the meeting into record, after which Counsel Sarah Mathews read the statement of necessity into record as some members were attending by teleconference.

**ROLL CALL**

Director Roxana Gumucio took roll call and it was determined there was a quorum to be able to conduct business that day.

**AGENDA**

Mr. Johnstone motioned to adopt the day's agenda as written. This was seconded by Ms. Johnson. The motion carried by unanimous vote.

**MINUTES**

Mr. Johnstone made a motion to adopt the minutes from the May 22<sup>nd</sup> and July 11<sup>th</sup> meetings, both of which were seconded by Mr. Bennett. Both motions carried by unanimous vote.

**EXPERIENCE REVIEWS**

Mr. Thomas conducted the experience interview of **Daniel Hampton Quick** off-site and recommended that his experience be accepted towards the Certified Residential upgrade he had applied for. Mr. Johnstone made a motion to accept the recommendation, which was seconded by Ms. Johnson. The motion carried by unanimous vote.

Mr. Johnstone conducted the experience interview of **Cary Lee Crain** off-site and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Mr. Bennett made a

motion to accept the recommendation, which was seconded by Mr. Atwood. The motion carried by unanimous vote.

Mr. Johnstone conducted the experience interview of **Jon Durrett Clouser** off-site and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Mr. Bennett made a motion to accept the recommendation, which was seconded by Mr. Atwood. The motion carried by unanimous vote.

Mr. Thomas conducted the experience interview of **Wendy Kaye Morrison** off-site and recommended that her experience be accepted towards the Certified Residential upgrade she had applied for. Ms. Johnson made a motion to accept the recommendation, which was seconded by Mr. Johnstone. The motion carried by unanimous vote.

Mr. Johnstone conducted the experience interview of **Ray Carter Higdon** before the meeting and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Mr. Bennett made a motion to accept the recommendation, which was seconded by Mr. Atwood. The motion carried by unanimous vote.

Mr. Garrison conducted the experience interview of **Christopher Darryl Graves** off-site and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Mr. Johnstone made a motion to accept the recommendation, which was seconded by Mr. Atwood. The motion carried by unanimous vote.

Mr. Garrison conducted the experience interview of **Melissa Margaret Rich** off-site and recommended that her experience be accepted towards the Certified General upgrade she had applied for. Dr. Mackara made a motion to accept the recommendation, which was seconded by Mr. Bennett. The motion carried by unanimous vote.

Mr. Garrison conducted the experience interview of **Chris Alan Hodge** before the meeting and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Ms. Johnson made a motion to accept the recommendation, which was seconded by Mr. Johnstone. The motion carried by unanimous vote.

Mr. Garrison conducted the experience interview of **Wesley Lucas Butler** before the meeting and recommended that his experience be accepted towards the Certified General upgrade he had applied for. Mr. Johnstone made a motion to accept the recommendation, which was seconded by Ms. Johnson. The motion carried by unanimous vote.

## EDUCATION REPORT

Dr. Mackara read the courses, instructors and individual course requests that had been submitted for approval into record as having his stamp of approval, per the listings below. Ms. Johnson made a motion to accept those recommendations, which Mr. Johnstone seconded. The motion carried unanimously.

### September 18<sup>th</sup>, 2017 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Hours	Type	Recommendation
Columbia	2044	Red Flags in Property Insepction, No. 157	A. Brown, R. Wilson	8	CE	Approve

Alterra	2045	2017 Collateral Matters	S. O'Brien, T. Durant, B. King, K. Trost, E. Durbin, C. Bennett, E. Martinez, S. Robinson	7	CE	Approve
Alterra	2046	2017 Keynote / Emerging Issues	Z. Dawson, S. Reuter, T. Pistilli, G. Stephens, S. Chambers, S. Telford	7	CE	Approve
ASFMRA	2047	Timber Property Valuation	T. Kestner	8	CE	Approve
Greater TN Chapter of AI	2048	Real Estate Finance, Value & Investment Performance	J. D. Vernor	7	CE	Approve
Greater TN Chapter of AI	2049	Automation for Real Estate Appraisers	A. Sheppard	7	CE	Approve
The Land Trust of Tennessee	2050	Understanding Conservation Easements	R. Gilmore	7	CE	Approve
Melissa Bond	2051	FHA and the Appraisal Process	M. Bond	7	CE	Approve

### Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Joel Fulmer (CG 385)	CCIM Memphis	Creating Reliable Valuations	3	CE	Approve

### November 20th, 2017 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Hours	Type	Recommendation
NAIFA	2054	Mastering Unique & Complex Properties	M. Orman	20	CE	<b>APPROVE</b>
				20	QE	<b>APPROVE</b>
NAIFA	2055	Mastering Unique & Complex Properties	M. Orman	18	CE	<b>APPROVE</b>
GA Appraiser School	2056	Introduction to Litigation Valuation	J. Smithmyer	7	CE	<b>APPROVE</b>
Appraisal Institute	2057	Solving Land Valuation Puzzles	B. Hall	7	CE	<b>APPROVE</b>
Appraisal Institute	2058	Practical Applications in Appraising Green Commercial Properties	T. Runde	14	CE	<b>APPROVE</b>
				15 (+exam)	CE	<b>APPROVE</b>
Calypso	2062	ON-LINE Construction Details; From Concept to Completion	F. Finegan	7	CE	<b>APPROVE</b>
Appraiser eLearning	2064	ON-LINE Commercial Property Valuation	B. Reynolds	7	CE	<b>APPROVE</b>
ServiceLink Valuation Solns.	2065	ServiceLink Quality Roadshow	A. Pair, D. Wiley	7	CE	<b>APPROVE</b>
ASFMRA	2066	Best in Business Ethics	L. Meador, A. Brannstrom	3	CE	<b>APPROVE</b>
IRWA	2067	Elevating Your Ethical Awareness	C. Thorenson	8	CE	<b>APPROVE</b>
IRWA	2069	Understanding Environmental Contamination, 603	C. Johnson	8	CE	<b>APPROVE</b>

ASFMRA	2070	AgWare Back to Basics	T. Newkirk	7	CE	<b>APPROVE</b>
NAIFA	2071	2017 NAIFA Conference – Wednesday	T. Bellisario, M. Chapin, R. Gilmore, T. Kneesel, B. Lambeau, T. Munizzo, M. Munizzo	8	CE	<b>APPROVE</b>
NAIFA	2072	2017 NAIFA Conference – Thursday	C. Capilla, M. Chapin, J. Lagrew, T. Munizzo, T. McCarthy, B. Shea	8	CE	<b>APPROVE</b>
ASFMRA	2073	Agricultural Chattel Valuation	L. Meador	3	CE	<b>APPROVE</b>
Appraiser eLearning	2074	ON-LINE Sales Comparison Approach	B. Reynolds	7	CE	<b>APPROVE</b>
The Awareness Group	2077	Recognition, Liabilities and Dangers of Meth Labs	K. Poteet	4	CE	<b>APPROVE</b>
Columbia Institute	2080	ON-LINE Better to be Safe than Sorry, No.846	G. Harrison, H. Sullivan	7	CE	<b>APPROVE</b>
ASFMRA	2081	88th Annual Convention Day1	T. Barr, M. Clarke, D. Bunton, S. Frerichs B. Sherrick, P.Morf	6	CE	<b>APPROVE</b>
ASFMRA	2082	Rapid Fire Case Studies 2017	D. Fisher, R. Gilmore, F. Geyer, T. Dobbin, R. Fleming, M. Marshall M. Williams, W. Nefstead, M. Melette, J. Bierschwale, J. Widdoss	6	CE	<b>APPROVE</b>
ASFMRA	2083	Evaluating Business Viability	L.Meador	4	CE	<b>APPROVE</b>
ASFMRA	2084	7 Hour National USPAP Course (A114)	T. Dobbin	7	CE	<b>APPROVE</b>
McKissock	2094	Limited Scope Appraisals & Reports	D. Bradley, W. Czekalski, C. Huntoon, L. McMillen, S. Vehmeier, S. Maher, P. Lloyd, A. Brown	3	CE	<b>APPROVE</b>
McKissock	2095	The Appraisal of 2-4 Unit Properties	D. Bradley, C. Huntoon, W. Czekalski, L. McMillen, S. Vehmeier, S. Maher, P. Lloyd, A. Brown	4	CE	<b>APPROVE</b>
NAIFA	2096	2018-2019 National USPAP Update	M. Orman	7	CE	<b>APPROVE</b>
ASFMRA	2097	ASFNRA 88 <sup>th</sup> Annual Convention Day 2	J. McCurry, M.Lacy, D. Kohl	3	CE	<b>APPROVE</b>
IRWA	2098	2018-2019 7Hr National USPAP Update	D. Braun	7	CE	<b>APPROVE</b>
Melissa Bond	2100	2018-2019 National USPAP Update	Brown	7	CE	<b>APPROVE</b>

ASFMRA	2101	15 Hour National USPAP Course (A113)	A. Greenwalt	14	CE	<b>APPROVE</b>
				15	QE	<b>APPROVE</b>
Georgia Appraiser School	2102	2018-2019 7-Hour National USPAP Update	B. J. Smithmyer	7	CE	<b>APPROVE</b>
Dennis Badger	2103	2018-2019 7-Hour National USPAP Update	D. Badger	7	CE	<b>APPROVE</b>
Dennis Badger	2104	Residential Appraisal Review & USPAP Compliance	D. Badger	7	CE	<b>APPROVE</b>
Appraisal Institute	2106	2018-2019 7-Hour USPAP Update	T. Kirby	7	CE	<b>APPROVE</b>

### Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
1. Diane Ange (CG-92)	Wichita State University	Public Utility Basic Appraisal Course	21	CE	<b>APPROVE</b>
2. Joan Flores (CR-1404)	GA Appraiser School	Appraising Factory Built & Manufactured Housing	7	CE	<b>APPROVE</b>
3. Vincent Vaughn (CG-196)	GA Appraiser School	Appraising Factory Built & Manufactured Housing	7	CE	<b>APPROVE</b>
4. Randall Thomas (CR-935)	AARO	AARO Spring Conference	14	CE	<b>APPROVE</b>
5. Jeff Clipse (CR-1635)	The Spearman Center	USPAP Update	7	CE	<b>APPROVE</b>
6. Zane B. Harris (CR-1308)	Georgia Appraiser School	USPAP Rules & Regulations	7	CE	<b>APPROVE</b>
7. David Walden (CR-1308)	vdpPfandbrief Akadamie	Determination of Mortgage Lending Valuation	14	CE	<b>APPROVE</b>
8 (1) Charlotte Miller TR 5421	IAAO	Appraisal of land (Appraiser Principles)	30	QE	<b>APPROVE</b>
8 (1) Charlotte Miller TR 5421	IAAO	Income Approach to Valuation (Appraiser Procedures)	30	QE	<b>APPROVE</b>

### Additional / Course Instructor Approvals

Licensee / Instructor (Qualifications)	Course Provider	*Course Listings	Recommendation
Claude Weems (CG - 272)	TREES (All course materials previously submitted and approved)	1020 -BASIC APPRAISAL PRINCIPLES 1021 -BASIC APPRAISAL PROCEDURES 1022 -RESID SITE VALUATION 1023 -RESIDENTIAL REPORT WRITING 1024 -RESILD SALES COMPARISON 1025 -MARKET ANALYSIS & HIGHEST & BEST	<b>APPROVE</b>

		1226 -ADVANCED RESIDENTIAL CASE STUDIES 1288 -STATISTICS, MODELING & FINANCE 1289 -MASTERING UNIQUE & COMPLEX PRO 36 -URAR 382 -TWO TO FOUR UNIT CASE STUDY 489 -HUD-FHA APPRAISAL GUIDELINES 42 -HEWLETI PACKARD, 12C CALC. 488 -BASIC ACCRUED DEPRECIATION 811 -LAND/SITE VALUATION 1227 -MORTG FRAUD: A DANGEROUS BU 1228 -FHA & VA APPRAISER 1496 -APPRAISAL OF 2-4 FAMILY 1525 -UNIFORM APPRAISAL DATASET 1645 -RESIDENTIAL REPORTING: HITTING 1646 -APPRAISING GREEN RESIDENCES 1647 -RESIDENTIAL APPRAISAL REVIEW 1722 -DEFENSIBLE APPRAISAL PRACTICES 1734 -TODAY'S FHA AND VA 1821 -SUPERVISING THE TRAINEE APPRAISER	
David N. Powell (CR-3691)	TREES (All course materials previously submitted and approved)	1020 -BASIC APPRAISAL PRINCIPLES 1021 -BASIC APPRAISAL PROCEDURES 1022 -RESID SITE VALUATION 1023 -RESIDENTIAL REPORT WRITING 1024 -RESILD SALES COMPARISON 1025 -MARKET ANALYSIS & HIGHEST & BEST 1226 -ADVANCED RESIDENTIAL CASE STUDIES 1288 -STATISTICS, MODELING & FINANCE 1289 -MASTERING UNIQUE & COMPLEX PRO 36 -URAR 382 -TWO TO FOUR UNIT CASE STUDY 489 -HUD-FHA APPRAISAL GUIDELINES 42 -HEWLETI PACKARD, 12C CALC. 488 -BASIC ACCRUED DEPRECIATION 811 -LAND/SITE VALUATION 1227 -MORTG FRAUD: A DANGEROUS BU 1228 -FHA & VA APPRAISER 1496 -APPRAISAL OF 2-4 FAMILY 1525 -UNIFORM APPRAISAL DATASET 1645 -RESIDENTIAL REPORTING: HITTING 1646 -APPRAISING GREEN RESIDENCES 1647 -RESIDENTIAL APPRAISAL REVIEW 1722 -DEFENSIBLE APPRAISAL PRACTICES 1734 -TODAY'S FHA AND VA 1821 -SUPERVISING THE TRAINEE APPRAISER	<b>APPROVE</b>
Robert Frazier (CG - 272)	McKissock (All course materials previously submitted and approved as ON- LINE presentations)	1736 - Analyze This 1796 - Disciplinary Cases 1877 - Expert Witness 1878 - Fannie Mae 1879 - Workfile 1882 - FHA Handbook 1901 - Adjustments: Supported or Not 1975 - Appraisal Practices 2003 - Adjustment Support 2004 - Issues in Appraiser Liability 2005 - Recognizing Mortgage Fraud	<b>APPROVE</b>

## DIRECTOR'S REPORT

Director Roxana Gumucio informed the Board that the budget would be presented at the next meeting with the help of Bill Huddleston to wrap up the year-end figures for 2017.

## **LEGAL REPORT**

The legal report was presented by Robyn Ryan and Erica Smith as follows:

### **Robyn Ryan**

#### **1. 2017035751**

**Licensing History:**                      **Certified Residential Appraiser**                      **6/20/13 – 6/30/19**  
**Disciplinary History:**   **None**

Complainant states Respondent below, trainee, appraised subject property on May 10, 2017. After receiving appraisal, Complainant noticed the name of the Respondent who conducted the appraisal was not the same as the name on the appraisal. On May 23rd, Complainant's loan officer stated the appraisal was not an "as is" appraisal, but a "subject to" window repairs and HVAC system replacement and would complicate the loan. The loan officer sent a letter of dispute to Respondent and asked that the property be appraised "as is". On May 24th, Respondent went to Complainant's home and took pictures and Complainant asked why the property could not be appraised "as is" rather than "subject to". Respondent stated if the property was appraised "as is" it will be a C5. Complainant let Respondent know that this is a conventional 30-year refinance. Respondent told Complainant before leaving that the new information would be sent to the bank the next morning. On May 30th, Complainant contacted Respondent because the new information had not been received. Respondent stated he had been out of town and that if he appraised the property "as is" he would have to appraise the house as a C5 and most banks won't issue mortgages on a C5 house and stated he would respond to the disputes. As of July 18th, Respondent has not responded to disputes.

Respondent states the appraisal was made "subject to" repairs based upon the following observations:

- Homeowner stated the central heat unit was not working.
- Exterior unit showed age & rust with no date of manufacture.
- The crawl space revealed holes in ductwork and was not banded to the floor joists along with signs of rodent infestation.
- Homeowner stated that heating source was two units with none in the bedrooms.
- Based upon the engagement letter from the client the appraisal would be used to determine market value to make a loan on the subject property secured with a mortgage. Based upon good appraisal practices, an adequate and permanent heating source is essential for a house to be habitable in this region of the country.

Respondent states that below Respondent is his trainee, has over 500 hours of appraisal experience, and is permitted to inspect the property. Respondent states he followed the Scope of Work in following good appraisal practices. Respondent states a permanent heating source must be operable. Two small wall units were not deemed adequate for 1,465 square feet with ceilings higher than 10 feet.

### **REVIEWER CONCLUSIONS**

Respondent appropriately identified the trainee appraiser in the certification and described the extent of the significant assistance provided by the trainee including the property inspection. Respondent appropriately reviewed the report completed by the trainee and made suggestions, corrections, and revisions.

- No explanation is provided for the exclusion of the income approach. [SR 2-2 (a)(viii)], and the rationale for the opinions and conclusions, including reconciliation of the data and approaches is not sufficient per [SR 1-6 (a)(b).]
- The appraisal report contains minor clerical errors and omissions. [SR1-1(c)]. There are some issues which could be clarified by the appraiser.
- Adjustments made in the Sales Comparison Approach are not adequately supported, and the analysis does not fit the description in the market data grid. This is not compliant with SR 2-1 (b) and SR 2-2 (a) (iii). The supporting data was not found in the work file indicating the analysis was not performed. This is noncompliant with SR 1-4 (a) and the Record Keeping Rule (lines 319-321).
- Application of the land valuation method in the cost approach is not clear. [S.R.1-1(a); S.R. 2-1 (a)].

It is the Reviewer's opinion that the appraisal that is the subject of this review complies with USPAP requirements regarding the primary complaints.

**Recommendation: Dismiss**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**2. 2017035771**

**Licensing History:                      Unlicensed**  
**Disciplinary History:                  None**

Respondent is trainee involved in the above complaint, 2017035751.

Respondent states he arrived at property and immediately introduced himself as Respondent with above Respondent's appraisal company. Respondent states he discussed with Respondent about issues observed during the inspection of the property, and discussed questions on how to input the information into the report and how they affected the market value. Respondent states he has demonstrated the required competency and training to effectively complete the site inspection without a mentor and has met all requirements to be an appraisal trainee.

**REVIEWER CONCLUSIONS**

Respondent has completed all requirements to be a registered trainee including background checks and education requirements. It is clear that a supervisory relationship existed; however, it is unclear whether the supervisor/trainee relationship between Respondent above and trainee was established in writing as of the effective appraisal date.

- No explanation is provided for the exclusion of the income approach. [SR 2-2 (a)(viii)], and the rationale for the opinions and conclusions, including reconciliation of the data and approaches is not sufficient per [SR 1-6 (a)(b).]
- The appraisal report contains minor clerical errors and omissions. [SR1-1(c)]. There are some issues which could be clarified by the appraiser.
- Adjustments made in the Sales Comparison Approach are not adequately supported, and the analysis does not fit the description in the market data grid. This is not compliant with SR 2-1 (b) and SR 2-2 (a) (iii). The supporting data was not found in the work file indicating the analysis was not performed. This is noncompliant with SR 1-4 (a) and the Record Keeping Rule (lines 319-321).
- Application of the land valuation method in the cost approach is not clear. [S.R.1-1(a); S.R. 2-1 (a)].



It is the Reviewer's opinion that the appraisal that is the subject of this review complies with USPAP requirements regarding the primary complaints.

**Recommendation: Letter of warning regarding income approach clarifications and sales comparisons.**

**Decision: The Commission voted to dismiss.**

**3. 2017037701**

<b>Licensing History:</b>	<b>Appraisal Management Company</b>	<b>8/18/14 – 8/17/18</b>
<b>Disciplinary History:</b>	<b>None</b>	

Complainant is licensee who was receiving orders from Respondent. After Complainant stopped getting work orders, Complainant asked why and was told that Complainant had an expired license on file and the file had not been updated. Once file was updated, Complainant received an order for \$350 when previous orders had been for \$425. Complainant was told that Respondent's work had lessened so Respondent was paying appraisers less. Complainant states that work is being sent to the cheapest and not the most appropriate appraiser and as this was a public concern. Complainant contacted the lender on the order in question and informed that lender. Complainant was then removed from Respondent's panel. Complainant states that all previous 35 orders were all above \$400 and that Respondent's home state has implemented a minimum reasonable fee of over \$500. Complainant states Complainant was removed from panel without a termination letter, that Respondent required a Complainant add a comment to a report claiming it was a requirement of Fannie Mae, that Complainant was not allowed to respond to the removal from the list, that the Respondent's internal system was a manual system showing Complainant expired but he was assigned an assignment, and that for one appraisal he was given only hours to complete that appraisal.

Respondent states Respondent does not send assignments to the cheapest or inappropriate appraisers, and that all appraisers on Respondent's panel are certified. Respondent states that the local state board does not have a minimum fee of \$500, and that the state board issued a guidance document stating the multiple ways an appraisal management company can prove the company is paying customary and reasonable fees. Respondent states that Complainant was removed from the panel on December 15 and was issued a termination letter. The date of this complaint was June 14 and Respondent states that Complainant could have responded at any time. The day before termination, Respondent received an email from a client wherein Respondent states Complainant made inaccurate statements with the intent to damage reputation. Respondent states that the appraisal in question shows that the order was sent on August 11, that Respondent inspected the property on August 25, and requested an additional day to deliver the report, to August 26. Respondent states that the report was not delivered until August 30. Respondent further states that the report regarding the specific revision, Complainant stated in message system that Complainant spoke with review and sent the report in. Since that appraisal, Respondent states Respondent was going through a slow time and that was the reason for the lack of order assignments. Respondent further states that Respondent cannot assign orders when appraiser has an expired license and insurance, and the work Complainant was assigned was a final inspection for an already completed appraisal.

**Recommendation: Dismiss**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**4. 2017040601**

**Licensing History:**

**Appraisal Management Company**

**7/1/11 – 7/31/19**

**Disciplinary History:**

**None**

Complainant is licensee and Respondent is appraisal management company. Complainant states Respondent is delinquent in paying for services of licensees, and sometimes the payment has been delayed 5 months. Complainant states Complainant submitted a report and request for payment on 2/20/17 and another on 4/3/17 and that as of the date of this complaint, 6/26/17, they were unpaid.

Respondent states that an internal search showed three engagements that resulted in four invoices, and that payment for all four were issued prior to receiving this notice. Respondent states that there were external sources that altered the information of Complainant, and that changes were then made to payee and address of payee and these changes cause multiple internal system adjustments. Respondent states that one firm name was associated with the first appraisal and with an address different than the submitted invoice. Respondent states the second firm identified had another published address. Respondent states these changes in company addresses and names did not allow the system to sync the two entities, and addresses and caused the invoices to be stuck in payment cue.

In rebuttal, Complainant states that Complainant's profile was changed in October 2016 to reflect change of company due to death of owner of first company. Complainant states that as of this rebuttal, July 9, Complainant has not been paid for the invoices in question.

**Recommendation: \$1,000 civil penalty for violation of T.C.A. §62-39-421, failing to make payment within sixty days of completion of service.**

**Decision: The Commission voted for a \$1,000 civil penalty for violation of T.C.A. §62-39-421, failing to make payment within sixty days of completion of service, and consent order requesting proof of payment, proof of payment policy, and proof of history of completion of payment for the last 18 months.**

**5. 2017043091**

**Licensing History:**

**Certified General Appraiser**

**11/4/16 – 11/3/18**

**Disciplinary History:**

**None**

This is an anonymous complaint regarding a report done by Respondent for a conservation easement for a charitable contributory credit by the United States Treasury Department. Complainant states the analysis was not accurate with the intended use of the appraisal and therefore the conclusion is flawed. The complaint raises several concerns with how the appraisal was approached, the valuation, and comparable sales. Complainant challenges the hypothetical condition that portions of property were to be subdivided into residential lots along a water frontage, and that this property would be in flood zone. Complainant also challenged the comparable sales, and states the after value analysis was not developed.

Respondent addressed the issues in the complaint, but also questioned the person who filed the complaint as this appraisal was a confidential document between the landlord and the trust involved. Respondent suggests that there were two issues, one being the highest and best use, and the second before and after methodology. Respondent states the before and after methodology was used in the sales comparison approach, the cost approach, and the reconciliation of value. Respondent states that question in highest and best use was based on the Complainant's belief that an appraiser must determine the highest and best

use prior to the easement on an “as is” basis only, and Respondent states that it should be based on questions concerning zoning, building of recreational dwellings, financial feasibility and maximum productivity. Concerning building in areas subject to flood, Respondent states that the purchaser was an out of state duck hunter who had built a home on another lake in flood plain. Respondent states that it is common to build recreational dwellings in areas subject to flood. Respondent challenges other conclusions made by Complainant.

Attorney representing the non-profit receiving the easement, filed a letter stating that biologists for the non-profit determined the property with high conservation value and a candidate for protection with conservation easement. The easement gives the non-profit the right to use the value of the donation as a matching contribution to secure federal grant funding to perform wetlands restoration and land protection work, and therefore the appraisal was solely for the purpose of review for federal match. Attorney states the non-profit’s position is that the donation was a legit mate easement that protects valuable riverine habitat in direct proximity to the highly developed residential and commercial area of the close by city.

Subsequent to the first response, Respondent filed an updated response and appraisal after the original appraisal was reviewed by a review appraiser and expert authority, not Reviewer. Both appraisals were then reviewed by Reviewer.

## **REVIEWER CONCLUSIONS**

Reviewer reached the following conclusions in the first review:

1. Report option not prominently stated. SR 1-1(a), SR 2-2
2. Intended users not properly identified SR 1-2(a)(SR2-2(a). Reviewer states the use stated was a report for a charitable contribution as a part of a conservation easement and that therefore the US Internal Revenue Service would be an intended user.
3. Property rights not properly identified. Reviewer states that while the easement was mentioned in appraisal report, the effect on property interest being valued was not properly reported and analyzed.
4. Definition and Source of Value not properly identified. SR1-2(c) SR 2-2(a)(v)
5. Scope of Work not properly developed. Reviewer states that it appears that the assignment was to arrive at an opinion of value for a charitable contribution to satisfy IRS regulations and the report does not address the requirements or associated assignment conditions. SR1-2(h)
6. Hypothetical conditions not adequately addressed. Report does not adequately disclose the effect the use of the hypothetical condition as on the assignment results. SR202(a)(xi)
7. Subject property not properly identified. Report identifies the acreage and states property in currently zoned rural agricultural use. Reviewer states that these are relevant characteristics to be considered and analyzed. Reviewer states that the description is narrow and no mention that the property is in a flood plain. Reviewer states Reviewer could not verify the size of subject property and there was nothing to support that the property was in a currently zoned rural agricultural use. Reviewer states that the area factors affecting marketability and market trends were not reported, described, or analyzed and report does not properly identify or analyze known easements and encumbrances. SR1-1(a)(b)(c), SR1-2 (e)(i)(iv),SR1-3(a), SR 2-1(b), SR2-2(a)(iii).
8. Market area trends and economic factors were not properly reported and analyzed. See above.
9. Highest and Best use not properly summarized and supported. Reviewer states that given the location, zoning, configuration area use and considering data from the health department, office of planning, Corps of Engineers and Natural Resources Conversation service, the highest and best use of the subject property would be for agricultural/recreational use. Reviewer state the report and work file do not provide sufficient analysis and support to indicate Respondent analyzed relevant

legal, physical, and economic factors and report does not properly summarize the support and rational for the opinion stated. SR1-3(b), SR 202(a)(x)

10. Sales comparison opinions, analysis and conclusions not properly supported. Reviewer states that there were no comments found for verification of sales used and no comments or indications that Respondent verified sales with a primary participant of the sales used. Reviewer states the report does not provide sufficient information to enable others to understand rational for opinions and conclusions. SR1-1(a)(b)(c), SR1-4(a), SR 2-1(b), SR 2-2(a)(viii)
11. Reconciliation does not address quality nor quantity of data used in value approach. Reviewer states appraisal results not conveyed in appropriate manner, and reduces the credibility of final value opinion. SR 1-6(a)(b), SR202(a)(viii).

In the second review, Reviewer states the revised report disclosed the use of hypothetical condition but the report does not adequately disclose the effect the use of the hypothetical condition would have on the assignment results. Reviewer states the revised report has an effective date of value conclusions of November 15 which is same date as revised report and new report should have an updated date.

1. Reviewer states the scope of work does not meet expectations of regular intended uses and is not sufficient. SR1-2(h)
2. Revised report discloses use of hypothetical condition but does not adequately disclose what the effect the use of the hypothetical condition has on the assignment results. SR 2-2(a)(xi)
3. Revised report does not properly identify locational, physical and economic characteristics or attributes relevant to the intended use, does not properly identify or analyze known easements and encumbrances which affect subject property. SR1-1(a)(b)(c), SR 1-3(a) SR2-1(b) SR 2-2(a)(iii)
4. Revised report does not provide sufficient information for intended uses to understand rationale for opinions and conclusions in the sales comparison approach to value. SR 1-1(a)(b)(c) SR 2-1(a)(b)(c) SR2-2 (a)(viii)
5. Revised report had a signed certification that that no significant professional assistance was provided to persons signing report, but correspondence shows Respondent noted that recommendations had been made by a review appraiser and expert authority on conservation easement report writing. SR 2-2(a)(vii) SR 2-3 ( pages 27, 28, lines 844-846, 863-866)

**Recommendation: Discuss**

**Decision: The Commission voted to re-visit this case in January.**

**6. 2017043431**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>7/13/05 – 1/31/18</b>
<b>Disciplinary History:</b>	<b>2011008641 Closed with Consent Order (\$500 Civil Penalty and 15 hrs Residential Report Writing)</b>	

Complainant is home owner and states Respondent was hired in 2016 to do an appraisal of home for mortgage refinance. When Respondent arrived, Complainant states demeanor was rushed. Complainant does not believe the comparisons used were appropriate for the home. The appraisal did not meet the loan requirements and the refinance did not go through. In 2017 Complainant refinanced through a different lender and appraiser that had a value of \$80k more than the previous appraisal.

Respondent states that the comparable sales were very limited but were chosen as the best of all available sales found. Concerning the second appraisal, this appraisal was sent to Respondent as an appraisal review assignment and reviewed by Respondent. Respondent states there are two main differences. In

the 2016 appraisal report, the detached garage was to be included, but was on a separate parcel. On instructions of the mortgage company, the second parcel was not to be included in appraisal report but this second parcel was included in the subsequent appraisal. Respondent states that the average sale price for properties similar increased 6% from the date of the first appraisal to the date of the second.

### **Reviewer Conclusions.**

- Standard 1-4(b)(i): Site value was stated and there was a paragraph stating the opinion was based on sales. Work file had lot date points, a listing and a sale, but report did not state any discernable analysis.
- Standard 1-6(a): Appraisal essentially states that the adjusted improved sales indicate a wide range of indicated value and the value conclusion is near the average of the indications. There does not appear to be any reconciliation relative to the quality of the comparables as to similarity, and no recognition is discussed re the gross and net adjustment and therefore the most supported value range would likely be concluded from the data.
- A cost approach was employed, but there was no discussion of the cost approach within the value reconciliation process.
- Sales comparison approach does not address the implied similarity or lack of similarity of comparables based on gross and net adjustments.

**Recommendation: Letter of warning regarding reconciliation of data analyzed, and cost approach using discernable analysis.**

**Decision: The Commission voted to issue a \$1,000 civil penalty.**

### **7. 2017048121**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>1/16/08 – 1/31/18</b>
<b>Disciplinary History:</b>	<b>None</b>	

Complainant is home owner and states that Complainant believes appraisal done by Respondent was not complete. Specifically, Complainant states Respondent asked about recent updates and Complainant stated the deck, but in the report Respondent states there were no updates in 15 years except the deck. Complainant states that if Respondent had qualified the time period, there would be updates such as new flooring, new central heat and air, new roof, etc. Complainant states Complainant has only owned home for ten years and cannot discuss previous five years and updates.

Respondent states that Respondent performed an interior and exterior inspection of the property and also interviewed Complainant. Based on that information, Respondent states Respondent included all information known to Respondent as of effective appraisal date.

### **REVIEWER CONCLUSIONS**

- **SR Rule 1-1 (a)** Reviewer states that sales were all smaller and no discussion for the determination of size adjustment. Reviewer states it would have been better to have bracketed the subject as to size to prevent any size adjustment error determination.
- **SR Rule 1-4(b)** Reviewer states the use of cost approach was used and that Respondent used life expectancy set out on the form was 80 years and that this was error as schedule ends at 70 years. The land value was assigned at \$15,000 and the appraisal states that a land value appraisal was not completed. Reviewer states there is no support for the land value allowance and no analysis by an

appropriate appraisal method or technique used. No lot sales or analysis set out within the work file. The reference to the replacement costs and depreciation does not appear to align with the Cost Source set out in appraisal.

- **SR 1-6(a)** Reviewer states the Sales Comparison Approach did not bracket the subsequent size leaving questions relative to the credibility of the appraisal.

**Recommendation: Letter of warning regarding cost and sales comparison approach.**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**Erica Smith**

**8. 2017035671**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>1/10/00 – 5/31/18</b>
<b>Disciplinary History:</b>	<b>None</b>	

This complaint was filed by the Officer of an LLC based in MN whose job title is “Appraisal Compliance Manager” for U.S. Bank. The complaint itself is a “Recommendation for State Referral” pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, Title XIV, Subtitle F, Section. 129E, Mandatory Reporting and was received on 6/6/17. This recommendation states possible deficiencies were identified in the appraisal report for the subject property and U.S. Bank sent a summary of these concerns to Respondent to allow Respondent a chance to respond in writing. The following is a summary of the concerns in Respondent’s report:

- The letter of engagement (exhibit 4) states the appraiser shall notify the client immediately if unable to perform interior inspection of outbuildings. Respondent did not inspect outbuildings until a later date, and did not notify client immediately. Respondent did not communicate details of inspection of outbuildings within report or whether or not an extraordinary assumption was made that the condition of outbuildings, as of the date of building inspection, was assumed to be equal to date of appraisal inspection. This lack of detail and communication does not allow client to properly understand the report.
- Client assignment conditions were not followed in terms of use of MLS photos as outlined in letter of engagement which states original photos shall be used. However, if certain conditions existed, then MLS photos would be permissible with supported reason. Respondent disputed this concern by quoting Fannie Mae, which was not the concern.
- Client assignment conditions not followed in terms of including additional comments re: adjustments that are not reasonable in nature. Respondent was asked to explain and support adjustments applied for location, site, and porch/patio/deck, and disputed this concern by again quoting Fannie Mae, which was not the concern.
- Respondent used sales dated 21 and 14 months prior to the appraisal effective date without an adequate rationale explaining why it was necessary to use such dated sales. Additionally, market adjustments were not applied without summary rationale and market data to explain and support the lack of the adjustment.
- Respondent used a sale that is a wood/log design with personal elevator and HOA dues which are all characteristically different from subject property. Respondent did not address these issues with market data and support in the appraisal or in his response to complainant’s notification letter.
- According to interior photos of comparable sales available through online sources, sales have varying degrees of quality and customization. However, the subject property and sales are noted to

be equal in quality not warranting an adjustment. Respondent's report lacks rationale to support this opinion and conclusion.

Complainant alleges Respondent specifically violated the following USPAP Rules as a result of the above mentioned deficiencies:

- 1-2(e)(i) and 2-1(a)(iii) by failing to clarify concerns re: legal characteristics of subject property
- Scope of Work Rule, 1-2(h), 2-1(b), 2-2(a)(vii) and 2-2(a)(viii) by failing to comply with client assignment conditions in various ways mentioned above.
- 2-2(a)(viii) because report lacks summary rationale and market data to explain/support opinions and conclusions that adjustments for location and site were extracted from the market.
- 1-4(a) and 2-2(a)(viii) by failing to use publicly available sources to explain and support opinions re: quality and condition of comparable sales.
- 1-4(a), 2-1(b) and 2-2(a)(viii) by using a closed sale with inherently different characteristics from subject property, failing to analyze or discuss impact to value and/or marketability of such characteristics and then giving equal consideration to this sale in the reconciliation; which does not allow client to adequately understand report. Complainant feels these material deficiencies resulted in a possible failure to comply with USPAP and may have significantly affected the value assigned to the subject property.

Respondent does not believe this complaint is warranted and states he determined the scope of work required for this assignment, applied it, and performed the due diligence necessary to produce a credible report. Respondent further states he indicated the highest and best use as deemed reasonable by The Dictionary of Real Estate Appraisal (4<sup>th</sup> Edition) and Fannie Mae appraisal requirements. Respondent reported to Complainant's requests and takes issues with the fact it took ten (10) months to address the issues Complainant alleges now.

The expert reviewer found the following violations in the Respondent's report:

- SR 1-3 – Respondent failed to discuss the allowance provided by the A-2 zoning.
- SR 1-4(a) – Respondent only provided a limited degree of analysis for property used as comparisons and provided no discussion relative to the comparisons made in sales comparison approach.
- SR 1-4(b)(i) – Respondent failed to include information to demonstrate the method or technique used to develop the land value.
- SR 2-1(b) – Respondent failed to include sufficient information to enable the Complainant to understand the report properly because there was no explanation as to the duration of adjustment allowances.
- SR 2-2(viii) – Respondent's report lacks supporting discussion of the adjustment duration for items within the sales comparison approach.

Counsel recommends no civil penalty and a total of 30 hours of educational courses above and beyond the requirement for licensed appraisers due to the lack of disciplinary history and based on the five (5) violations stated above.

**Recommendation: Counsel recommends the authorization of a Consent Order and thirty (30) hours of coursework, with fifteen (15) hours of Sales Comparison Approach courses and fifteen (15) hours**

**of Report Writing educations course. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**Decision: The Commission voted for an authorization of a Consent Order and fifteen (15) hours in a Report Writing education course. Such course must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing. The Commission also voted to authorize that the Consent Order contain language requiring respondent to use the most recent version of the Dictionary of Real Estate Appraisal (6<sup>th</sup> Edition).**

**9. 2017039081**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>2/2/06 – 2/28/18</b>
<b>Disciplinary History:</b>	<b>None</b>	

Complainant alleges Respondent's appraisal is not a competent or accurate report and deficient in the following ways:

- Respondent used three (3) rental comparables that were smaller in square footage and did not include any information about the second rental unit that was part of the subject property.
- Respondent used three (3) sales comparables that were either uninhabitable, in a completely different neighborhood, considerably smaller than the subject property (by over 1,000 sq. ft.), a distressed sale, or being sold "as is" with no repairs offered. The subject property is a 6 bedroom/4.5 bath, 3148 sq. ft. home that has been newly renovated, currently leased, in excellent condition, and with attractive new features.

Respondent states that she researched for comparables in this market by doing a search within the immediate area (1 mile) of the subject property, but that search returned insufficient data. Respondent then expanded the search area within the neighborhood boundaries, which include different zip codes, for 1 year prior to the effective date with approximately 30% difference of square footage because "sales were intermittent." Respondent further states the rental data was also scarce as many owners handle rental properties themselves and do not publicize the amount of rent received. Respondent uses the MLS as the primary source of data and reported what was available. Respondent explains that if only one side of a rental property was disclosed, she only reported one side, but when determining market value rents, the subject property received "credit" for both sides which is addressed within the report on a supplemental addendum. Respondent explains why she used the 3 comparables as follows:

- Comp. 1 – one side of the property had been updated and the other side had been maintained, and part of the property was occupied at time of sale
- Comp. 2 – this is in an inferior location within the neighborhood so a location adjustment was made; property was in inferior condition so a condition adjustment was made; this sale was used because it brackets the subject property's square footage
- Comp. 3 – this was sold to settle an estate but it was advertised to the public, on the market for a reasonable amount of time and sold for a price that appears to be in line with the market; part of the property was occupied at time of sale

The expert reviewer found the following violations in the Respondent's report:



- SR 1-2(c)(iv) – Respondent reports an exposure time range from 0-3 months for market conditions and references a 1004MC addendum but does not include it in the report. Respondent also used a dated source for the definition of “exposure time.”
- SR 2-1(b) – Respondent states what data sources were used in the report but does not identify the extent, does not specify the search parameters, and only minimal analysis was provided regarding the data, opinion and conclusions.
- SR 2-1(b) and 2-2(a)(viii) – Respondent did not include supporting data or a summary for additional sales or rentals. Additionally, Respondent only provides minimal supporting data for location, economic trends or physical attributes and no analysis.
- SR 2-1(b) – Respondent does not adequately describe the subject and relevant characteristics regarding the +/- 10% difference in improvements area from the property tax assessor report.
- SR 1-1(c), 1-3(a) and 2-1(b) – Respondent states the subject property is in average condition with no repairs and updates are stated, but no reference is made to when the updates were completed. Additionally, Respondent states the subject property’s age is 40 years when it is actually 70 years. Further, Respondent states the effective age is estimated at 15 years in the improvement description but 5 years in the cost approach. More analysis is needed for the subject property’s condition and effective age assumption to support value and credibility to the report.
- SR 1-2(e)(ii) and 1-2(g) – When the subject property is encumbered by a lease, including a partial lease or other type of lease, the leased fee property rights must be valued. A fee simple value could be done as an additional value scenario under the hypothetical condition that the lease does not exist, but Respondent fails to do this.
- SR 1-3(a), 2-1(b) and 2-2(a)(viii) – Respondent deems market conditions stable based on a 3-year analysis but does not include a summary or analysis of market conditions. Respondent also fails to provide information regarding neighborhood rent trends or vacancy rates, and therefore fails to provide a sufficient summary or describe the reasoning to support the analysis, opinions and conclusions.
- SR 1-1(c), 2-1(a) and 2-1(b) – Respondent used three (3) comparable duplex rental properties but none of them reflected short term rentals. Gross building area was incorrectly reported for the subject property and for the comparables. Additionally, no adjustments were made for one of the comparable unit differences (number of bedrooms/bathrooms, condition or amenities) and no information or analysis is provided to support the rent concluded. No additional adjustments are considered or analysis done for additional rent and how it may impact rent potential for the comparable or value to the subject property. No information is provided regarding the lease and possible renovations for Comparable 2, or the status, size and condition of the second unit and how it compares to the subject property and its value. Respondent fails to include a statement acknowledging certain characteristics and their relative impact on the subject property regarding Comparable 3. All 3 rental comparables are smaller than the subject property and they did bracket the subject units by square footage and room count, and were reported to be in average condition, but no analysis is provided and no adjustments are considered. Information is omitted and reporting errors are noted.
- SR 1-6(b), 1-4(c)(i) and 2-1(b) – Respondent did not provide a comparative analysis or reconciliation to support the market rent concluded for the subject units.
- SR 1-2(e)(i) – Respondent did not mention the impact of any possible short term leases on the subject property’s marketability despite the fact that the subject units are permitted for short term rental property use per the Metro mapping website.

- SR 1-4(a), 2-1(b) and 2-2(a)(iii) and (viii); Record Keeping Rule lines 319-321 – Respondent’s adjustments that were provided or excluded are not supported from the market and no supporting data was found in Respondent’s work file which indicates that an analysis was not performed. While the comparables are reasonable, a more thorough search and explanation of the reasoning behind the use or exclusion of some sales found by the expert would mitigate confusion and validate and support the value opinion.
- SR 1-1(a), 2-1(a)-(c) and 2-2(a)(viii) – Respondent states that equal weight was placed on all 3 comparables but only one of them was used to calculate the GRM and one was emphasized for market rents. Respondent also assumes the same market rent for both units and multiplies by 2, which is not supported by the market. Respondent failed to provide statistical or summary data to support the GRM determined and applied. Respondent failed to provide information or analysis regarding a reconciliation of the approaches used. The expert states that Respondent should have limited the market data search parameters for sales, listings and pending sales to a good sample of competing and comparable properties rather than the entire range of these in the neighborhood.
- SR 1-1(c) and 2-1(a) – Respondent used the cost approach to comply with the lender requirement but it was not weighted in the reconciliation which is compliant with USPAP, but the data processed and reported is inaccurate and misleading. Additionally, Respondent did not note a discrepancy in the report of \$41,000 (13.3%) or how it was reconciled regarding a comparable lot. Respondent also understated the land value and inconsistently reported the effective age and the reliability of the cost approach depends on valid cost estimates, proper depreciation estimates and accurate site values. Since “very limited data was available” in the income approach and insufficient data was found with intermittent sales data in the sales comparison approach, the cost approach should be considered in support of value.

In conclusion, the expert concludes that the analysis and opinions/conclusions are not credible and the report is not compliant with USPAP requirements. This conclusion is based on the lack of information, explanation and support provided. Although the expert believes Respondent rendered an objective and impartial opinion of value, due to the lack of analysis, the opinions and conclusions lack credibility.

Counsel notes over 15 violations as referenced above, but due to the lack of disciplinary history and lack of malicious intent, Counsel recommends a \$2,000 civil penalty and a total of 30 hours of educational courses above and beyond the requirement for licensed appraisers.

**Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) to be satisfied within thirty (30) days of execution of the Consent Order and thirty (30) hours of coursework, with fifteen (15) hours of Sales Comparison Approach courses and fifteen (15) hours of Report Writing educations course. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**Decision: The Commission has voted for an authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) to be satisfied within thirty (30) days of execution of the Consent Order and thirty (30) hours of coursework, with fifteen (15) hours of Income Approach courses and fifteen (15) hours of Report Writing educations course. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond**

**the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**10. 2017040761**

**Licensing History:**

**Certified General Appraiser**

**11/15/91 - 11/30/17**

**Disciplinary History:**

**2010037161 Closed with Letter of Instruction**

Complainant is a licensed real estate agent and filed this complaint against Respondent who was hired to appraise the subject property listed by Complainant. Complainant takes issue with the fact Respondent only spent 15-20 minutes at the subject property that is 7 acres and 3,300 sq. ft. when completing the appraisal, where Complainant states Respondent took some photos and measurements. Complainant also takes issue with the appraised value which Respondent reported to be \$100,000 less than the contract price. The bank who ordered the appraisal disputed the value the same day it was received and Respondent concluded that the value did not need to be changed. Complainant states the subject property was sold over 2 years ago for the same price that Respondent appraised it at. Since then, the subject property's owner has spent over \$30,000 to upgrade the land, including adding new roadways and a stocked pond with landscaping. Additionally, the subject property is in Williamson County where real estate has increased in value at a minimum of 5% per year, but Respondent's value is computed to show the subject property has decreased in value by \$25,000. Complainant also states that 2 of the 3 comparables aren't in the same city of Franklin but in College Grove, which historically has a significantly less land value and sales prices. Complainant further states that Respondent was unprofessional because Respondent had stated he would call Complainant 30 minutes before he was to arrive for the appraisal, but ended up calling Complainant 5 minutes before he arrived and therefore Complainant could not meet him as scheduled. Complainant concludes by stating that since Respondent did not spend a sufficient amount of time during the appraisal and won't change the value, Respondent is either incompetent or is not disclosing something he has against the buyer or seller.

Respondent states that he has been appraising property in Middle Tennessee for 32 years, has a MAI designation, a SRA designation from the Appraisal Institute and has been licensed in Tennessee for as long as a license has been required. Respondent further states the MLS listing included in her work file is from 2015 because the subject property was not publicly listed for this transaction, and explains that she gathered market condition data digitally through the MTRMLS and imported it directly into the report. Respondent confirms that she agreed to contact Complainant 30 minutes before she would arrive but a prior appointment was dropped at the last minute so she was ahead of schedule. Respondent's employee called Complainant to let him know this and Complainant told the employee the farm manager was at the subject property and could meet Respondent. Respondent measured all 4 sides of the exterior, went inside and photographed, measured and noted all items in every room, inspected and measured the garage and porches, as well as the interior and exterior of the multi-purpose detached garage/barn/storage building. Respondent asked the farm manager numerous questions regarding the structures, pond, easement access with adjoining properties, boundary lines, fencing, etc. After the farm manager answered these questions, he told Respondent that Complainant was not coming at all and at no time did Respondent feel the farm manager was uncomfortable with the way the inspection was conducted, Respondent's due diligence or access to any part of the subject property. Respondent was aware of the sales price from 2 years ago as noted in her work file and was provided with the upgrade information from the farm manager. Respondent explains the contract was a private contract; the subject property was never available to the public market via MTRMLS, Zillow or any other databases. The comparables used were all located in the Fred Page school district and within 7.53 miles from subject property, on 3.05-10.68 acre lots,

and with homes ranging in age from new construction to 15 years old. Respondent could not find any comparables that had similar easement accesses that had been listed or sold in the recent months, and states that some of the comparables used in the disputing appraisal report were actually farther away than Respondent's comparables. Respondent states that her inspection was not unprofessional in any way and she had her employee there to help conduct the appraisal. Respondent does not appraise a property below a contract price without significant consideration as she understands the serious impact it can have on the parties involved. Respondent reported a value that is the best estimate she was able to support based on the data she collected and the site inspection.

The expert reviewer found the following violations when reviewing the appraisal report:

- SR 1-1(b), 1-2(c), and 2-2(a) – Respondent failed to perform sufficient due diligence to locate an easement that was recorded by warranty deed and did not describe the easement or analyze the possible effects it would have on the value.
- SR 2-1(b), 2-2(a)(viii), and Record Keeping Rule lines 319-321 – Respondent does not provide land sales or extraction/allocation techniques to support a site value opinion nor does she summarize any support or reconcile any data to support the site value. Further, Respondent states that multiple regression is used to support the GLA adjustment but no regression is found in the work file. There is no statement or support for any other adjustments in the report or work file.
- SR 1-6(a) and (b), SR 2-2(a)(viii) – Respondent does not attempt to reconcile the wide range of data from the comparables' sale prices (\$782,000-\$867,000) to explain how she arrived at the final opinion of value.
- SR 1-3(b) and 2-2(a) – Respondent did not summarize the support and rationale for her opinion that the highest and best use is the current use of the subject property. Additionally, there is no opinion given for the highest and best use of the site as-vacant.

The expert concluded by stating based on his research and analysis of pertinent supporting documentation, Respondent's report is deficient in its compliance with USPAP and therefore, the credibility of the results is impaired due to the type and extent of non-compliance.

Counsel considers Respondent's disciplinary history of one Letter of Instruction from 2010 and the extent of the multiple violations, and recommends a \$1,000 civil penalty and 15 hours of coursework in Report Writing courses.

**Recommendation: 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 and fifteen (15) hours of Report Writing education courses. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**Decision: The Commission voted for an authorization of a Consent Order and fifteen (15) hours of Report Writing education courses, seven (7) hours of Advanced Land Valuation education courses, and seven (7) hours of Highest and Best Use education courses totaling twenty-nine (29) hours. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**11. 2017044001****Licensing History:****Certified Residential Appraiser****3/8/00 – 7/31/18****Disciplinary History:****None**

Respondent appraised Complainant's home ("subject property") for an FHA loan request for a purchase price of \$329,900. Complainant takes issue with the appraisal value of \$307,000 and the fact that Respondent concluded the subject property was not a bi-level home, and therefore only considered 1,895 sq. ft. opposed to 3,261 sq. ft. Complainant also takes issue with the comparables used as they are in a different neighborhood and have less square footage. Complainant called the County Appraiser's Office and was told she was being taxed for 3,261 sq. ft. and that her home was listed as a bi-level home. Complainant wanted another appraisal done before Respondent's was submitted because the report would remain effective for 6 months but Complainant states Respondent refused to re-do the appraisal, reconsider the changes with the new information or look at the county records that described the home as a bi-level home. Complainant closed on the home for the "incorrect" price of \$307,000 based on what Complainant describes as "false documentation submitted" because Complainant was relocating and did not want to have to make house payments on the home until it sold.

Respondent denies that she misrepresented the home in any way in her report and feels Complainant may just be misinformed and an unknowledgeable seller, and Respondent does not fault Complainant for her concerns. Respondent provided the MLS listing which designates the subject property as a "traditional" style home with above grade living area and a basement area. Respondent states the tax records indicate a bi-level home, which, in Davidson County, means that part is above grade and part is below grade. Respondent's report states the subject property is a "split foyer" home that offered both above and below grade living areas, and Respondent believes it was correctly broken down in the report. Respondent further states that Sale 1 and Listings 1 and 2 are from the immediate subdivision and are split-foyer homes. Sales 2 and 3 and Listing 1 are in competing subdivisions and are also split-foyer designs. Sale 4 is not a split-foyer design but offers above and below grade living areas. Respondent also spoke with someone from the Atlanta Home Ownership Division of FHA regarding this issue and was told if any portion of the home is below grade, it cannot be included in the above grade living area square footage and room count lines. Respondent feels that none of her peers that are licensed appraisers would have included all of the area in the above grade living area.

The expert reviewer states that the comparables all appear to be similar and handled in a consistent manner and he finds no indication of either misleading information or negligence on the part of Respondent. It is also the expert's opinion that any violations of USPAP committed by Respondent do not seem to be an attempt to mislead the client. Further, the expert states Respondent's report meets the standard for compliance with the Ethics Rule, the Record Keeping Rule and the Competency Rule of USPAP. The expert noted a few issues during his review that could be interpreted as minor violations of USPAP, but none were of significance. USPAP states several times that "[p]erfection is impossible to attain, and competence does not require perfection." The expert could not address the issue of Respondent's opinion and report that states the subject property is a basement home instead of a bi-level home because the expert did not inspect the subject property, but he does state that comparables appear to be relevant and similar in overall character. Furthermore, Respondent provides a satisfactory response to the complaint regarding the issue of basement v. bi-level designation. The expert concludes the report appears to be professionally rendered, well documented, and the work file is robust and aids in understanding Respondent's appraisal process.

Counsel recommends dismissal based on the expert review, lack of evidence of any violations and based on Respondent's history of no discipline.

**Recommendation: Dismiss and close.**

**Decision: The Commission voted to approve the recommendation of the legal counsel.**

**12. 2017046641**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>10/31/91 – 6/30/19</b>
<b>Disciplinary History:</b>	<b>None</b>	

Complainant is a licensed real estate agent and he filed this complaint against Respondent because Respondent was hired by an appraisal service to do an appraisal for a USDA loan but actually did an appraisal for a conventional loan. Complainant states that an individual from the mortgage company ("the representative") called Respondent and informed Respondent that he had not filled out the form correctly for the USDA loan, and asked Respondent to go back and fill the form out correctly. Complainant then states Respondent told the representative that he was about to go on vacation and couldn't do it before he left. Complainant claims that Respondent told the representative that, "that really isn't my problem and I don't care!" when Respondent was told that the delay could cause the buyer to lose the home. Complainant feels the work performed by Respondent was obsolete, yet claims Respondent accepted payment for his services. Complainant states the only proof he has to prove the allegations is a copy of the notes made in the account by the appraisal service. These notes show the appraisal service put the order on hold as of July 5, 2017, and that Respondent informed the appraisal service he was "currently at work load and will be on vacation beginning July 7, 2017. [Respondent is] unavailable to complete the Report Conversation until the first week of August. Please put a directive here in our communication log advising us how to proceed."

Respondent confirms his firm was engaged to perform a **conventional URAR appraisal** by the appraisal service in June 2017. Respondent states that the client wanted language and certifications inserted into the report after the appraisal was completed, attempting to change it from a conventional appraisal to one that meets the requirements of FHA/USDA. Respondent asserts that this would be in conflict with their engagement letter which had clear, specific engagement requirements. Respondent states he completed an appraisal in accordance with the instructions from the client, offered to do a new report based on the new assignment parameters after he returned from vacation, and denies ever saying anything like he didn't care or that this wasn't his problem. Respondent further states he has not been paid for his services like Complainant alleges.

Counsel finds no evidence of any USPAP violations and Respondent has never been disciplined in 26 years of being licensed, therefore recommends dismissal.

**Recommendation: Dismiss and close.**

**Decision: The Commission voted to approve the recommendation of the legal counsel.**

**13. 2017051051**

<b>Licensing History:</b>	<b>Certified Residential Appraiser</b>	<b>6/6/03 – 4/30/18</b>
<b>Disciplinary History:</b>	<b>2011025211 Closed with Letter of Warning</b>	

**2014008181 Closed with Consent Order (15 hrs Residential Report Writing, 30 hrs Basic Appraisal Procedures and 15 hrs Residential Site Valuation and Cost Approach)**

**2017010101 Closed with Consent Order (\$4,000 Civil Penalty)**

There were 3 separate complaints filed against Respondent regarding the same appraisal and these 3 complaints were combined into this matter. Complainant #1 alleges Respondent provided an inaccurate appraisal of her home resulting in the loss of a contract. Complainant #2 states that the subject property was under contract for \$915,000 as of June 21, 2017, but Respondent's appraisal on July 10, 2017 valued the subject property at \$843,000. Complainant #2 states the subject property was appraised in 2015 for \$1.3 million but alleges Respondent refused to acknowledge and evaluate prior appraisals before her requested re-appraisal, and used inappropriate comparables even after a third party mediator who is a licensed appraiser was brought in. Complainant #2 brings up the fact that Respondent has a history of incompetence and discipline, including reprimands in August 2014 and June 2017, which included up to \$4,000 in fines and mandatory remedial classes. Complainant #2 feels that the sale was nullified due to Respondent's incompetence which placed financial hardships on both the buyer and seller. Complainant #3, a seller, alleges Respondent's appraisal was significantly less than two (2) recent appraisals, including the amount appraised in the tax records for the subject property. Ms. Floyd also alleges Respondent submitted the report late.

Respondent's attorney sent in Respondent's response to these complaints and confirms Respondent was hired on July 6, 2017 by an appraisal management company ("AMS"). Respondent states she had no interactions with the three (3) complainants and although Respondent understands the Complainants are disappointed, Respondent denies the allegations entirely and affirmatively states she performed the appraisal diligently and appropriately. Respondent further states after conducting her initial research on the subject property, she visited the home on July 10, 2017, took necessary measurements to prepare a drawing, and communicated the estimated completion date for the report as July 12, 2017, to AMS. When Respondent completed the drawing, she noticed a discrepancy of 710 sq. ft. of the heated square footage between the 2015 appraisal and her measurements. Respondent immediately contacted AMS on July 12, 2017 to request a copy of the measurements/sketch for the 2015 appraisal but was informed the seller could not locate it. Respondent then was granted permission to re-measure a second and then a third time, which she did, and found the same discrepancy after the three (3) re-measures. Respondent and her daughter, a licensed appraiser, measured the subject property the third time together when the discrepancy was confirmed again. Respondent finalized and submitted the report to AMS on July 16, 2017, which reflected the value to be \$843,000 based on the subject property information provided to Respondent by AMS, Respondent's initial research, appropriate comparables, an analysis of the neighborhood and subdivision, and based on Respondent's experience as a licensed appraiser. On July 17, 2017, AMS requested three (3) minor changes to the report which Respondent complied with and re-submitted the report with the requested changes made. Then, on July 20, 2017, AMS sent the sketch from the 2015 appraisal to Respondent and she found several errors that accounted for the measurement discrepancy. On the same day, Respondent received an email from AMS's Quality Control representative who stated that the client had uploaded a request for reconsideration of value, and included other potential comparable for Respondent to review. The client wanted Respondent to add the new potential comparables if applicable and comment on a previous sketch submitted by the client that showed 400 sq. ft. more than Respondent's original appraisal. Respondent then contacted the seller and was granted permission to re-measure for the fourth time, and found the discrepancy was the same as the first three (3) measurements taken. Respondent reviewed the MLS report for each of the potential comparables submitted by the client and found them not to be relevant to her analysis of the subject property.

Respondent also re-reviewed the County Assessor of Property data for the subject property, re-analyzed the neighborhood, and found that nothing warranted a change to the value submitted originally. Respondent submitted the final appraisal report on July 25, 2017, with an addendum citing the discrepancy, explaining the mistakes in the previous sketch submitted by the client, noted the slight increase in site value made to this final report since the last one was submitted, and explaining why the comparables submitted by the client were not relevant to this report. On July 31, 2017, Respondent received another email from Quality Control which stated that the client requested Respondent to review three (3) more potential comparables, which Respondent did. Respondent submitted the last version of the final report with another addendum to AMS on July 31, 2017, stating why the three (3) additional potential comparables were not appropriate. Respondent had no further communication with AMS or any party involved in the transaction and denies ever communicating with a "third party mediator" as Complainant #2 mentioned. Respondent claims it would have been improper for her to have considered the value of the 2015 appraisal because USPAP guidelines make it clear that an appraiser is to perform assignments with impartiality, objectivity, independence and without a pre-determined opinion or conclusion. Respondent denies submitting the report late, as she stayed in constant communication with her client, Equity, about the estimated completion date for the original and the revised reports. Respondent concludes that she approached this assignment with an abundance of caution and concern for the accuracy of her appraisal.

The expert reviewer noted that most of the report was adequately described and analyzed. However, the expert found the following violations:

- SR 1-1(a)-(c); 1-4(a); and 2-2(a)(viii) – Respondent noted adjustments but provided no adequate reasoning or analysis to indicate how the adjustments were derived or supported.
- SR 1-4(b)(i) and 2-2(a)(viii) – Respondent provided no discussion or analysis supporting the site value conclusion, although 3 site values were located in the work file.
- SR 1-1(a)-(c); 1-4(b)(ii); 2-1(a) and (b); and 2-2(a)(viii) – Respondent used a cost approach but cost estimates do not appear to have been properly analyzed or supported.
- SR 1-6(a) and (b); 2-2(a)(viii) – The reconciliation does not reconcile the quality and quantity of the data used in the approaches to value and statements made do not provide sufficient reporting or analysis to support opinions and conclusions. The applicability and suitability of the approaches used to derive at the value conclusions were not adequately reconciled. Therefore, the results were not conveyed in an appropriate manner, thus reducing the credibility of the final value opinion.

Counsel considers Respondent's disciplinary history from 2011 through the present and because Respondent just settled a matter this year for a \$4,000 civil penalty and has been required to take 60 hours of additional coursework since 2014, the recommendation is to assess a \$1,000 civil penalty for each of the violations found by the expert. There were 4 major violations that made Respondent's appraisal less credible so Counsel recommends a total of \$4,000 in civil penalties and at least 40 hours of additional coursework to be decided by the Commission.

**Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Four Thousand Dollars (\$4,000) to be satisfied within thirty (30) days of execution of the Consent Order and forty (40) hours of appraisal education courses to be decided by the Commission. Such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**



**Decision: The Commission voted on a one on one meeting between the Respondent and a Commission Member from the Respondent's region to see what the Commission can do to help the Respondent and so the Member can talk with Respondent about this situation.**

**14. 2017054471**

**Licensing History:**

**Certified Residential Appraiser**

**3/29/2001 - 10/31/2019**

**Disciplinary History:**

**None**

This complaint was filed against Respondent who works at the County Assessor's Office ("the office"). Complainant alleges the business practices of the office are unfair and deceptive, specifically regarding Respondent and his supervisor. Complainant appeared in front of the County Board of Equalization on June 7, 2017, to try to appeal the property tax values established by the county for five (5) of Complainant's properties. Complainant alleges he requested necessary documentation to support the office's opined values from the office two weeks before the hearing, but the office refused to provide the documentation. Respondent presented his data to the Board, including several comparables used in determining the value, and suggested to the Board that they ignore Complainant's data because Respondent assumed Complainant purchased several of the five (5) properties from the same person which allows for a "significant discount" to Complainant. Complainant did not agree with Respondent's choice of comparables. Complainant ultimately concludes that Respondent, under the supervision of the County Assessor's Office, used deceptive practices to convince the Board of Equalization into approving a value that was considerably higher than the true market value.

Respondent confirms that he has been employed by the County Assessor's Office since 2014 and also holds an active license as an appraiser. Respondent agreed not to perform any fee appraisals in the County when he was hired, as it would be a conflict of interest. Respondent further states that the office does not rely on his individual appraiser license, he is the only employee at the office with a license, and he has completed several mass appraiser related courses from IAAO, as well as obtained a Tennessee Certified Assessor designation from the State Board of Equalization. Respondent summarizes his job duties at the office and states that his duties are numerous but were just a small part of the mass appraisal performed, which included Complainant's properties. Respondent cites USPAP and an Advisory Opinion No. 32, which state the definition of "mass appraisal" and explains its systematic approach and uniform application of appraisal methods and techniques used to obtain estimates of value that allow for statistical review and analysis of results. Respondent confirms that Complainant requested documentation before the hearing but states that the office does not provide such data before the hearing because the burden of proof was on Complainant to prove his position. Respondent denies the allegations and states that no deceptive practices were used to arrive at the value Complainant disputes. Respondent states he never misrepresented himself in a way that would have made the Complainant think Respondent was acting as a private appraiser to the Complainant and believes Complainant searched for Respondent's licensure information after the hearing did not go his way. Respondent further states that he never performed any fee appraisals on the five (5) properties referenced in this complaint and explains that he simply acted in his capacity as an employee of the County Assessor's Office, and his actions in no way related to his appraisal license.

Counsel recommends dismissal of this complaint because Respondent was not acting as a private appraiser, but in his capacity as an employee at a County Office and our office does not have jurisdiction over the County Assessor's Office.

**Recommendation: Dismiss and close.**

**Decision: The Commission voted to approve the recommendation of the legal counsel.**

**AMC REGULATIONS UPDATE**

Director Roxana Gumucio gave the members an update on where this process was in the pipeline with a note that the deadline to submit AMC records had been extended from January to June of 2018, by the ASC. She also mentioned that this set of regulations and the subsequent auditing required for AMC’s would be taken up at the January meeting when we perhaps had full Board member attendance in person.

**NEW BUSINESS**

**Q/A ON COMPLETING EVALUATIONS**

Director Roxana Gumucio presented a set of pertinent questions and answers that had been collated by Commissioner Garrison for the members to go over. Mr. Garrison presented the need for such a document based on the questions received on this particular topic from Tennessee appraisers in the recent past. The Board agreed that it would be best for each of them to go over the language and get back on any editing, additions or amendments at the January meeting - so the final text could be sent to the AG’s office by legal for vetting, after which it would be posted to the Appraiser website as a guide that would answer the questions received on the topic.

**LETTER TO THE ASC ON WAIVER OF APPRAISALS**

Director Roxana Gumucio presented a letter received by ASC Executive Director Jim Park, from TriStar bank requesting that the ASC waive all appraisal requirements for a period of one year due to a shortage of CG appraisers in their geographic proximity. Every member on the Board voiced their immediate concerns over the direct consequences of such an action being granted by the ASC as it appeared to be a direct attempt to ‘bypass the appraiser profession’ altogether in the words of one member. This was a sentiment that was shared by all present. Director Gumucio requested that the members email their views to her directly so she could in effect, share their reactions to the letter with Director Park at the earliest, and ended the discussion by mentioning that she would check with the ASC if the letter could be posted to the Appraiser website as there were questions that would no doubt follow as soon as the meeting video was posted online.

Director Gumucio also presented a letter received by admin staff from Nina McIver on perceived changes to the appraiser and mortgage industries that was forwarded for their perusal from the office of the Attorney General.

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There being no other business, Mr. Atwood move to adjourn the meeting at 12:30pm. This was seconded by Mr. Bennett and so accepted by Chairman Rex Garrison.