



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

August 9, 2010
Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met August 9, 2010 at 8:30 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairman, Thomas Carter, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Thomas R. Carter
Dr. Edward A. Baryla
Herbert Phillips
James E. Wade, Jr.
William R. Flowers, Jr.
Marc Headden
Erik Sanford

COMMISSION MEMBERS ABSENT

Najanna Coleman

STAFF MEMBERS PRESENT

Nikole Avers, Administrative Director
Aminah Saunders, Staff Attorney

ADOPT AGENDA

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

MINUTES

The July 2010 minutes were reviewed. Mr. Flowers made the motion to accept the minutes as written. It was seconded by Mr. Phillips. The motion carried unopposed.

GENERAL BUSINESS

Experience Interviews

James B. White made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Carter was the reviewer and recommended approval of the experience request.

Mr. Flowers made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Angela Russell made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Headden was the reviewer and he recommended approval of her experience request. Mr. Flowers made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Sloan Burton made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and recommended approval of his experience request. Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Jennifer Houston made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Wade was the reviewer and recommended approval of her experience request. Mr. Headden made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations to the Real Estate Appraiser Commission, as seen below. Mr. Headden made a motion to accept Dr. Baryla's recommendations. Mr. Wade seconded the motion. The motion carried unopposed.

August 2010 Education Committee Report

Course Provider	Course #	Course Name	Instructors	Hrs.	Type	Rec.
McKissock	1419	On-line Appraising & Analyzing Retail Shopping Centers for Mortgage Underwriting	Bruce Coin	7	CE	for
Appraisal Institute	1418	Advanced Spreadsheet Modeling for Valuation Applications	Jim Amorin	14	CE	for
The Columbia Institute	1420	Residential Market Analysis & Highest and Best Use, No. 227	Boarnet, Brown, Guilfoyle, Harrison, Henderson, Jacob, Reynolds	14/15	Both	for
The Appraisal Institute – Memphis Chapter	1421	Hot Topics in Residential Appraisal	Danny Wiley	4	CE	for

Individual Course Approval

Name	License #	Provider	Course Name	Hrs	Type	Rec.
Michael Creasy	1220	Nashville School of Law	Advanced Property	55	CE	for
Michael Creasy	1220	Nashville School of Law	Property	18	CE	for
Arthur D. Lewis	1876	International Association of Assessing Officers	IAAO-1-1-Fundamentals of Real Property Appraisal	30	CE	for

Instructor Approval

Name	Course #	Provider	Course Name	Type	Recommendation
Daniel Bradley	1207	McKissock	National USPAP Update Course 2010-11	CE	for
Daniel Bradley	1364	McKissock	The Changing World of FHA Appraising	QE	for

LEGAL REPORT

1. 200902610 Danny Wiley was the Reviewer.

This complaint was filed by a consumer and alleged that the Respondent was negligent in the selection of comparable sales, failed to meet professional due diligence requirements, lack competency in the geographic location of the subject property, failed to provide a credible opinion of the site value, and under-valued the improved residential property by indicating a value conclusion of \$169,000 on November 25, 2009.

The Respondent states that the only indicated the improvements since the purchase of the home was tree removal and a new pump system to the pool. Respondent explained the selection of comparable sales and admitted that the location map was not updated after his final selection of comparable sales. Respondent affirmed that all comparables were within two (2) miles of the subject property. Respondent provided prior listing data of the subject property as support.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The report contains no analysis of a sale of the subject property that occurred within the three years prior to the effective date. The reviewer found no other issues in the report.
- The allegation that the sales used in the comparison approach were inappropriate appears to be without merit. The data and analyses presented provide credible support to the assignment results.

The report notes a prior sale of the subject property on March 28, 2008. However, the report contains no analysis of that prior sale. [SR 1-5 (b), SR 2-2 (b) (viii)]

License History: Certified Residential Real Estate Appraiser 1/11/2005 to Present

Prior Complaint / Disciplinary History: None

Reasoning and Recommendation: Counsel and the Administrative Director recommend that given the single error noted by the reviewer and Respondent's complaint history, the omission can adequately be addressed with a Letter of Instruction regarding the omission of the analysis of the prior sale.

Vote: Mr. Wade made an alternate recommendation to **dismiss** the complaint. Mr. Flowers seconded the motion. The motion carried unopposed.

2. 200902250 Commission member Wade was the Reviewer.

A consent order was approved March 2010 authorizing surrender of the Respondent's Certified General Real Estate Appraiser credential. The complaint was initiated by a fellow practitioner and alleged that the Respondent communicated a commercial appraisal report regarding a condemnation matter that was not credible.

Counsel and the Administrative Director met with the Respondent on April 27, 2010. Respondent requested an October 31, 2010 surrender date to allow time to wrap up his appraisal practice. Respondent wrote a letter to the Real Estate Appraiser Commission indicating his disappoint with the way complaints are handled and indicating that he disagrees with many of the findings in the consent order, but ultimately decided to sign it and defer judgment on this matter.

License History: Certified General RE Appraiser 1/13/1995 to 9/11/2008
Certified Residential RE Appraiser 9/11/2008 to Present

Prior Complaint / Disciplinary History: None

Recommendation and Reasoning: Counsel and the Administrative Director respectfully recommend that the Commission approve the revised Consent Order for surrender of Respondent's license effective October 31, 2010.

Vote: Mr. Flowers made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Being no further business, the meeting was adjourned at 8:40 a.m.

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August 10, 2010

Third Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met August 10, 2010 at 10:20 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the third floor conference room. Chairman, Thomas Carter, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Thomas R. Carter
Dr. Edward A. Baryla
Herbert Phillips
James E. Wade, Jr.
Marc Hadden

COMMISSION MEMBERS ABSENT

Najanna Coleman
William R. Flowers, Jr.
Erik Sanford

STAFF MEMBERS PRESENT

Nikole Avers, Administrative Director

Jesse Joseph, Litigation Attorney

Supplemental Legal Report

3. & 4. L09-APP-RBS- 2009002831 & 2009012281 There was no Reviewer

These two matters have been considered by the Commission before, for a proposed consent order of suspension last December.

L09-APP-RBS- 2009002831

Initially, it appeared to us in the first complaint that the Respondent had recklessly failed to comply for a large number of months with the Administrative Director's request for her workfile documentation, without any explanation. The Complainant (client) alleged in this first complaint that Respondent had failed to adequately report information needed by the client and refused to correct erroneous information. In her response letter submitted to the Commission's administrative office, Respondent contended that she was requested to add certain information 2 weeks after completion of the assignment and to readdress the appraisal in the name of a different lender. Respondent states that she refused and also claimed that her original client altered her report to include the name of the different lender. However, we do not find that the Respondent failed to adequately report information needed by the client, or that she refused to correct erroneous information as alleged by this Complainant.

After Respondent was served with the first proposed consent order in early January of this year, she retained counsel who promptly communicated with the Office of Legal Counsel and who met with the State's counsel and the Administrative Director in late February. Respondent's counsel's explanation was essentially that Respondent had inadvertently failed to carefully read and/or understand the administrative director's notice of complaint letter requesting her to submit the additional workfile documentation regarding her cost and sales comparison approaches. This explanation, *for purposes of possible settlement*, is given some credibility, particularly where Respondent did promptly submit her written response to the complaint and had promptly submitted a copy of her appraisal report. After retaining counsel, Respondent did submit by late March the requested workfile documentation as to her development of the sales comparison approach, but she did not have any cost data figures from Marshall & Swift or from other sources to support her cost figures.

There has been correspondence exchanged between the parties and back and forth negotiations over several drafts of a proposed consent order between April and July of this year. Upon reflection, Counsel for the State and the Administrative Director (based on the Director's analysis of this complaint), believe that, *for purposes of settlement*, the violations of USPAP involved in this first complaint might not be serious enough to warrant further appraisal review, expenditure of time and resources in prosecuting a formal proceeding, and would likely not result in any suspension of Respondent's certificate or a very large civil penalty at hearing. Respondent has no prior disciplinary history, and we would recommend that the Commission approve the revised consent order signed by Respondent and her counsel imposing a \$750 civil penalty (payable in 2 installments - \$375 on execution of order, and the balance due within 3 months after this order is executed by the Commission (if it is approved), and that Respondent provide evidence that she has successfully completed a 7 hour classroom or online cost approach course by the end of this 3 month period.

L09-APP-RBS- 2009012281

In the second complaint, the Complainant (homeowner) alleged that Respondent had not made a full refund of the \$350 appraisal fee the homeowner paid to Respondent directly, in a loan transaction. It appears that several days after the Respondent began working on the assignment for the lender-client, the client terminated the assignment before completion by telling Respondent that the loan had been canceled, and requested that Respondent refund the entire appraisal fee to the client's "borrower".

Respondent did ultimately deliver to the client what she referred to as an "incomplete" report which had no written value opinion and which did not contain sufficient information to enable the intended user (client) or third party readers to understand the report properly. Respondent ultimately refunded \$100 to the homeowner, and claims she inspected the property and did a substantial amount of work. It also appears that Respondent provided to the client an oral price range after the inspection.

It appears that Respondent may not have understood that the provision of the verbal price range was an oral report. Respondent may not have completely grasped last year that it would have been better had she sent her client nothing, rather than the "incomplete" report. Respondent contends essentially that she did not really consider that she prepared an actual appraisal report, but appears to understand now.

Counsel for the State and the Administrative Director, after lengthy and laborious negotiations with Respondent's counsel, *for purposes of settlement*, recommend that the Commission approve the issuance of a letter of caution to Respondent in this complaint to be more careful in the future and would emphasize the need for her to comply fully with the provisions of USPAP (specifically Standards 1 and 2) in her future development and reporting of appraisals.

Prior Complaint/Disciplinary History: None as to either.

Recommendation and reasoning: Counsel for the State and the Administrative Director are willing to recommend the above proposal *for purposes of settlement* - \$750 consent order and cost approach course as to the first complaint (2009002831), and letter of caution as to the second complaint (2009012281) – primarily out a desire to promptly dispose of these 2 complaints which are somewhat aged, to accommodate a settlement which has been quite laborious and which has taken quite some time to come to fruition, because the infractions noted herein are not believed to be intentional or egregious, and because it is dubious as to whether the public interest will be better served by proceeding with formal charges in a matter of this nature necessitating further delay where the outcome is uncertain.

Vote: Mr. Wade made a motion to accept the recommendation. Mr. Headden seconded that motion. The motion carried unopposed.

Being no further business, the meeting was adjourned at 10:30 a.m.

Chairman, Thomas Carter

Nikole Avers, Administrative Director