



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

September 13, 2010
Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met September 13, 2010 at 9:15 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
Najanna Coleman
Herbert Phillips
James E. Wade, Jr.
William R. Flowers, Jr.
Marc Headden
Erik Sanford
Nancy W. Point

COMMISSION MEMBERS ABSENT

Dr. Edward A. Baryla

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. Wade. The motion carried unopposed.

MINUTES

The August 2010 minutes were reviewed. Mr. Wade made the motion to accept the minutes as written. It was seconded by Mr. Headden. The motion carried unopposed.

GENERAL BUSINESS

Experience Interviews

Five hundred hour experience reviews were conducted for Nathan E. McBroom and Frank E. Hanner by Commission member Phillips. He indicated the trainees were doing well.

Nesbit Harris made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Carter was the reviewer. He recommended Mr. Harris rewrite two reports in which he had found some issues, and then resubmit them and also for him to complete a level two general appraiser income course. He further recommended that this applicant attend a second experience interview once this has been completed and, if possible, have his supervisor attend the experience interview. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Michael W. Wilson made application to upgrade from a certified residential real estate appraiser to become a certified general real estate appraiser. Mr. Headden was the reviewer and he recommended approval of her experience request. Mr. Wade made the motion to accept the recommendation and Ms. Coleman seconded the motion. The motion carried unopposed.

James Michael Orick made application to upgrade from a registered trainee to become a certified general real estate appraiser. Ms. Point was the reviewer and recommended approval of his experience request. Mr. Headden made the motion to accept the recommendation and Mr. Sanford seconded the motion. The motion carried unopposed.

Melonie Sue Charlotte made application to upgrade from a licensed real estate appraiser to become a certified residential 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 Ms. Coleman seconded the motion. The motion carried unopposed.

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

Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations by e-mail to the Real Estate Appraiser Commission, as seen below. Ms. Avers read the recommendations into the record. Mr. Headden made a motion to accept Dr. Baryla's recommendations. Mr. Wade seconded the motion. The motion carried unopposed.

September 2010 Education Committee Report

Course Provider	Course #	Course Name	Instructors	Hrs.	Type	Recommendation
ASFMRA	1423	ASFMRA Governance and Ethics for New Members	Howard E. Audsley	4	CE	for

ASFMRA	1424	Current Environmental Issues	Bernie Gehris	8	CE	for
ASFMRA	1425	Rapid Fire Case Studies	Stephen E. Bolt, Phillip Holden, Dean Saunders, Dave Ganun, Don Fisher, Ron Geer, Jason Henderson	6	CE	for
ASFMRA	1426	ASFMRA 81 st Annual Convention	Jill Berg, Pierce Jones, John Lawrence, Steve Elmore, Elwynn Taylor, Jason Henderson	7	CE	for
Appraisal Institute	1427	Thinking Outside the Form	Jim Atwood	7	CE	for
ASFMRA	1428	Eminent Domain (A250)	Brent Stanger	22	QE	for in the elective module of the matrix. Pending an instructor name and bio
Appraisal Institute	1429	On-line General Appraiser Income Approach, Pt2	David Lenhoff	14	CE	for
Appraisal Institute	1430	On-line 2010-2011 7 Hour National USPAP Equivalent Course	Craig Harrington	7	CE	for
McKissock	1431	On-line Essential Elements of Disclosures and Disclaimers	Dan Bradley	5	CE	for
NAIFA	1432	General Appraiser Report Writing Update	Lynne Heiden	7	CE	for
NAIFA	1433	The Appraisal Spreadsheet: Boot Camp	Gary Snowden	4	CE	for
NAIFA	1434	Understanding the Message	Elizabeth Kern	4	CE	for
Allterra Consulting Group	1435	Re-Engineering The Appraisal Process	Bill Garber, Thomas Inerra, Mark Liley, Griff Straw, Tony Pistilli, Greg Stephens, Rick Langdon, Brad Davis	7	CE	for
Allterra Consulting Group	1436	2010 Key-note Valuation Visionaries	Jacque Doty, Vicki Bott, Gerald Kifer, Robert T. Murphy, Jeff Dickstein, Ernest W. Durbin II, Vladimir Bien-Aime, Mark R. Linne	7	CE	for
Dennis Badger & Associates Inc	1439	ERC Summary Appraisal Report Course	Tom Veit, Dennis Badger	7	CE	for

LEGAL REPORT

The Chairman is signing an order today in the following matter regarding which prior Commission approval has been obtained:

David B. Hayes (approved 07/10) – signed Consent Order imposing a \$1500.00 civil penalty and completion of a fifteen (15) hour Market Analysis and Highest & Best Use course, a fifteen (15) hour USPAP course, and fifteen (15) hours of coursework in Residential Report Writing. In an appraisal report, the Respondent violated Standard Rules (SR's) 1-1(b), 1-2(e)(i), 1-4 (a), 1-5 (b), 1-6 (a), 2-1 (a), 2-2(b) (iii) (viii), Scope of Work Rule: Problem Identification Section of the Uniform Standards of Professional Appraisal Practice.

Betty Sloan (approved 07/10) – signed Consent Order imposing a two thousand five hundred dollar (\$2500.00) civil penalty and completion of a fifteen (15) hour Site Valuation and Cost Approach course, a fifteen (15) hour USPAP course, and at least a total of forty-five (45) hours of coursework in Residential Report Writing and Residential Applications and Case Studies. In three (3) appraisal reports the reviewer found that the Respondent violated Standard Rules (SR's) 1-1(a)(b) (c), 1-2 (e) (i), 1-4 (a), 2-1 (a), 2-2(b) (iii) (viii), Ethics Rule: Conduct & Recordkeeping Section.

1. 200902722 Danny Wiley was the Reviewer.

This complaint was opened by the Administrative Staff of the Real Estate Appraiser Commission. The complaint alleges that the Respondent failed to reconcile the quality and quantity of data available and analyzed within the approaches used and reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusions and summarize that information within the appraisal report. The complaint further alleges that the Respondent's reconciliation in the report indicates that the sales comparison, cost approach, and income approach are given "no value" in the determination of the final value opinion.

The Respondent stated in his response letter that the reconciliation had a typographical error and the sales comparison approach should have read "given the most consideration". He indicated site value was determined using the extraction method. He admitted that he was unable to retrieve his comparable sale data for his data source because he does not print these pages at the time of the appraisal.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- There is conflicting information about market conditions.
- The Respondent has not retained an acceptable workfile for the assignment. There is no documentation of the sales data used in the comparison approach or the data used to develop the opinion of site value.
- The reconciliation indicates that none of the approaches are good value indicators for the subject property.

The report presents conflicting information regarding market conditions. The NEIGHBORHOOD section of page 1 of the URAR indicates that prices are stable. In the One- Unit Housing Trends, an "X" is placed in the box indicating prices are STABLE, and the comments states, "The median sales price for similar homes in the subject's market area has remained stable over the past 12 months." However, negative adjustments were made in the sales comparison approach, indicating declining prices. The comments in the Summary of Sales Comparison Approach on page 2 of the URAR state, "...These bank/foreclosures are causing the median sales price of similar homes to drop over the past 12 months." The 1004MC form also indicates that prices are falling. [SR 2-1(a)]

The Respondent was directed to provide a copy of all workfile documents. No sales data sheets were provided, and the Respondent indicated that they were not available. The Respondent's email states that such retrospective data is not available. However, the reviewer found the sales data was readily available in the MAAR, the MLS, and public records. [ETHICS RULE: Record Keeping section]

RECONCILIATION: The report states, "Sales comparison approach is given no value due to reliability of sales data; cost approach is given no value due to difficulty in estimating depreciation; income approach is

given no value due to area being predominantly owner occupied.” In an email dated 1/15/2010 the Respondent indicated that the sales comparison approach was given the most consideration. The Respondent stated that this error, “...could have easily caused the reader of the report to be misled...” [SR 2-1(a)]

COST APPROACH: The report states that the site value was obtained by extraction. However, in an email dated January 15, 2010 the Respondent stated that he had no sales in the area from which to extract the site value. It appears that the use of the term “extraction” may have been an error, and that the site value was actually developed using allocation rather than extraction. However, the workfile contains no evidence of this. [ETHICS RULE: Record Keeping section, SR 1-1(a)]

License History:	Registered Trainee	1/31/1995 to 6/20/1996
	Certified Residential RE Appraiser	6/20/1996 to Present

Prior Complaint / Disciplinary History: 200500447 & 200801287 (Dismissed)

Reasoning and Recommendation: Counsel and the Administrative Director recommend that given the Respondent’s lack of disciplinary history and the nature of the violations a consent order imposing a five hundred dollar (\$500.00) civil penalty and successful completion of a fifteen (15) hour Residential Report Writing Course and a fifteen (15) hour Residential Market Analysis and Highest and Best Use course.

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

2. 2009027141 Danny Wiley was the Reviewer.

This complaint was filed by a consumer and included allegations that the Respondent failed to support adjustments made in the sales comparison approach and failed to verify comparable living area data which caused the Complainant not to receive a loan in the amount they were seeking.

The Respondent stated in his response letter that adjustments made in the sales comparison approach are “typical for this market and are verified when possible and adjusted if warranted based on an ongoing paired sales analysis of pertinent data”. He stated the comparable sale living area was verified through the MLS service. He did point out an error he noted in the report that the high end of comparable sales should have read “\$114,000”, not “\$144,900”.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The report does not adequately address foreclosure activity in the subject’s neighborhood.
- Prior sales of Comparable one (1) and Comparable two (2) were not reported.
- Available data indicates that Comparable 1 and Comparable 2 had been updated and were in superior condition. No condition adjustments were applied.

NEIGHBORHOOD/MARKET CONDITIONS: The report indicates that there is insufficient data for the appraiser to comment on foreclosure trends in the area. The reviewer found seven foreclosure sales in the area. It is apparent that there was significant recent foreclosure activity in the area that was not addressed in the appraisal report. [SR 1-2(e) (i), SR 2-2(b) (iii)]

COMPARISON APPROACH: MLS is the only data source cited for the comparable sales. Failure to also verify data with online public records is not consistent with the scope of work expected by most lender clients and the actions of other appraisers in the area. Failure to use online public records as an additional data source likely contributed to the lack of information in the report regarding foreclosures in the area. [SCOPE OF WORK RULE, Scope of Work Acceptability section]

The appraisal report indicates that there were no sales of Comparable one (1) in the year prior to the sale reported in the adjustment grid. Online public records and the MLS indicate that this home also sold in June 2009 for \$54,000. This was a sale out of foreclosure. Bank acquired the home in March 2008. [SCOPE OF WORK RULE, Problem Identification section (failed to report and analyze prior sale in accordance with Fannie Mae requirements)]

The appraisal report indicates that there were no sales of Comparable two (2) in the year prior to the sale reported in the adjustment grid. Online public records indicate that this home sold in February 2009 for \$60,000. This was a sale out of foreclosure. HUD acquired the home in September 2008. [SCOPE OF WORK RULE, Problem Identification section (failed to report and analyze prior sale in accordance with Fannie Mae requirements)]

In the appraisal report, the condition of all comparables is reported as "Average." No condition adjustments were applied. The report indicates that the subject has stained carpeting and other minor repair issues. The MLS listing for Comparable one (1) indicates that the home had been updated with new windows, new paint, new tile and carpet, new appliances, new doors, new vinyl siding and gutters, new HVAC, new cabinets and counter tops, etc. The MLS listing indicates that this home is superior to the subject in condition, and a condition adjustment should be applied. Likewise, the MLS listing for Comparable two (2) states that the home had been updated with new carpet, new tile, and new paint. [SR 1-1(b), SR 1-4(a)]

License History: Certified General RE Appraiser 9/24/1991 to Present

Prior Complaint / Disciplinary History: None

Reasoning and Recommendation: Counsel and the Administrative Director recommend that the Respondent be offered a consent order imposing a \$1,000 civil penalty and successful completion of a fifteen (15) hour Residential Report Writing Course and a fifteen (15) hour Residential Market Analysis and Highest and Best Use course. The Respondent has no disciplinary history and has been licensed since 1991. The review suggests that the Respondent selected the market value on the high side of the comparable sales which tended to cause the value opinion to be higher.

Vote: Mr. Phillips made a motion to accept the recommendation. Ms. Coleman seconded that motion. The motion carried unopposed.

3. 2010001801 Danny Wiley was the Reviewer

The complaint was filed by a consumer and alleged that the Respondent communicated a misleading appraisal report and lacked competency to appropriately develop the value opinion indicated in the report. The complainant further alleged that the Respondent used inappropriate comparables, failed to analyze the sales conditions and physical condition and quality of the comparable sales.

The Respondent states that the comparables used were appropriate and the work file was submitted as support.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The reports appear to provide credible support for the value opinions. No significant issues were noted.

License History: Certified General RE Appraiser 12/23/1991 to present.

Prior Complaint/ Disciplinary History: None

Reasoning and Recommendation: Counsel and the Administrative Director recommend that the complaint be **DISMISSED**.

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

4. 2010002061 Danny Wiley was the Reviewer

This complaint was filed by a consumer and alleged that the Respondent under valued a residential property by communicating a value opinion of \$345,000.00 on January 21, 2010. The complaint further alleged that the Respondent used inappropriate comparable sales and communicated contradictory statements regarding the market value of the property not representing what the property was worth.

The Respondent states that the home owner indicated that the property was going to be marketed for sale and the equity loan was to fund repairs. Respondent states that the report complies with USPAP and that there was no bias in his performance of the appraisal assignment.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The report provides credible support for the assignment results. No issues were noted by the reviewer. The sales used appear to be the best available as of the appraisal date.

License History: Licensed RE Appraiser 10/11/2007 to present.

Prior Complaint/ Disciplinary History: 200800637 (Consent Order imposing fifteen (15) hours of education).

Reasoning and Recommendation: Counsel and the Administrative Director recommend that the complaint be **DISMISSED**.

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

5. 201002731 Danny Wiley was the Reviewer

This complaint was filed by a consumer and alleged that the Respondent misreported the style of the subject dwelling, omitted bathroom(s) from the building sketch, did not inspect the entire dwelling and under valued a residential property on October 15, 2009.

The Respondent stated that every room was inspected including the closets and that the basement half bathroom was not included in the above grade room count. The Respondent states that the lender requested that two additional sales be considered which were added as comparables six (6) and seven (7), with this addition Respondent states that the value conclusion was raised by \$4,000.00.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The allegation that a bath was omitted appears to be without merit.
- A prior sale of one of the comparables was neither reported nor analyzed.
- Two different reports were prepared and transmitted to the client, but the Respondent did not retain a copy of the first report.

The appraisal report indicates that there was no sale of Comparable two (2) in the year prior to the sale reported in the adjustment grid. Online tax data for S County indicates a sale of the home on 10/24/2008, which would be less than a year prior to the sale on 8/25/2009 that is reported in the adjustment grid. The sale in October was a sale out of foreclosure. [SCOPE OF WORK RULE: Problem Identification section, SR 2-1(a)]

The MLS listings state that comparable sales three (3), four (4) and seven (7) involve recently built homes. Condition adjustments of -\$5,000 were applied to all of them, indicating that this is the market derived adjustment between a new home and a home that is as old as the subject. However, the physical depreciation applied in the cost approach for the subject property is \$12,897. Since the depreciation is also supposed to reflect the market derived adjustment for the difference between a new home and one of the subject's age, these numbers should be consistent with each other. [SR 1-1(a)]

Two appraisal reports were prepared. After submission of the original report the client requested consideration of additional sales. A second report including additional sales was prepared and submitted to the client. The documents provided for review included only a copy of the second appraisal report. An email was sent to the Respondent on 2/18/2010 asking if the Respondent had a copy of the first report. In an email response also dated 2/18/2010 the Respondent indicated that the Respondent did not have a copy of the first report. The report submitted indicates that the data sources were MLS and "Courthouse Rec." The workfile documents submitted for review included only MLS data for the comparables. [ETHICS RULE: Record Keeping section]

License History: Licensed RE Appraiser 12/13/2000 to 11/25/2002
Certified Residential RE Appraiser 11/25/2002 to present

Prior Complaint/ Disciplinary History: 200707661 (Dismissed)

Reasoning and Recommendation: Counsel and the Administrative Director recommend that the complaint be closed with a **Letter of Warning** given the Respondent's lack of disciplinary history and the relatively minor issues noted by the reviewer.

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

6. 2010004111 Danny Wiley was the Reviewer

This complaint was filed by a consumer and included allegations that the Respondent misreported relevant property characteristics, used inappropriate comparable sales, and under-valued a residential property by first reporting a value of \$180,000, then raising it to \$190,000.

The Respondent stated in his response letter that the Complainant was unhappy with the mortgage loan process. He indicated the entire house had not been renovated at the time of inspection. He admitted that he misreported the driveway as "gravel" when it should have been "asphalt" paving. Respondent states that he advised the complainant that he "must consider market value on a house similar to his dwelling" and that he "used four sales with a range value allowing constitution of \$190,000". He wrote that he made the corrections and was "comfortably satisfied with a value of \$190,000" and "I would not have changed the value had the value range not supported this action. I further assured him that I would not risk losing my license to make up sales values."

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- Two different appraisal reports were prepared. The first report contained a significant error in the description of the subject property (finished basement area was omitted).
- Both reports contain a series of minor errors that cause one to question the credibility of the assignment results.
- Only one report was provided for review by the Respondent.

The Complainant submitted two different appraisal reports. In a response letter to TREAC dated March 16, 2010 the Respondent acknowledged that two different reports were issued. A corrected report was issued after the first report. However, both reports have the same signature date. The signature date on Report two (2) is inaccurate. [SR 2-2(b) (vi)]

In a letter from the TREAC dated March 14, 2010 the Respondent was directed to provide all appraisal reports prepared for the subject property. The Respondent provided a copy of only the second report. CRS is cited as a data source for the comparables. The work file documents submitted for review included no CRS data sheets. [ETHICS RULE: Record Keeping section]

The market conditions form (form 1004MC) was not completed in accordance with the requirements of Fannie Mae. The reports indicate that the sale data was not reported in the grid because there is too little data. This directly contradicts the Fannie Mae instructions for completion of form 1004MC. [SCOPE OF WORK RULE: Problem Identification section]

Report one (1) states that the home has a full basement with no finished area. Report two (2) states that 50% of the basement is finished. Hence, in the first appraisal there was a significant error of omission, as evidenced by the different adjustments and value conclusions. [SR 1-1(b), SR 1-2(e) (i), SR 2-1(a), SR 2-2(b) (iii)]

Report one (1) states that the driveway is gravel. Report two (2) states that the driveway is asphalt. Report one (1) and Report two (2) both state that there is no fireplace. Tax records indicate that there is a fireplace, and the owner stated that there is a fireplace. Neither Report one (1) nor Report two (2) disclose that there is a garage in the basement area. The errors constitute a series of errors that could lead one to question the credibility of the assignment results. [SR 1-1(c)]

The MLS listing reports that Sale two (2) has a detached utility building with approximately 1,300 square feet. The MLS listing states that the building has central heating and cooling. The CRS (which is cited as a data source for the comparable) notes a 25 x 48 detached structure that was built in 2004. This significant structure is not noted in the appraisal report, and no adjustment was applied. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

The appraisal report indicates that Comparable four (4) has a 2-car detached garage and an adjustment of -\$10,000 was applied. CRS data states that the garage is 24' x 28'. This adjustment is not consistent with the adjustment of -\$3,500 that was applied for the 2-car attached garages on Comparable one (1) and Comparable three (3). The basement adjustment applied to this sale in Report 2 is not consistent with the adjustments applied to Comparable one (1). [SR 1-4(a)]

Both reports indicate that the basement cost is \$20 per square foot. However, one report states that this is the cost for a full unfinished basement, and one report states that is the cost for a partially finished basement. The cost would not be the same for both unfinished basement and partially finished basement. [SR 1-1(b)]

License History: Certified Residential RE Appraiser 11/15/1991 to Present

Prior Complaint / Disciplinary History: 941815 (Consent Order – USPAP); 200600168 (Closed with a Letter of Caution)

Recommendation and Reasoning: Counsel and the Administrative Director recommend that given the Respondent's disciplinary history and findings by the reviewer that this Respondent be offered a consent order imposing a five hundred dollar (\$500.00) civil penalty and requiring successful completion of a fifteen (15) hour Site Valuation and Cost Approach course and a fifteen (15) hour Residential Report Writing course.

Vote: Mr. Headden made an amended recommendation for the civil penalty portion to be increased to \$1,000 to be consistent with other recommendations for similar complaints and he made motion. Mr. Phillips seconded that motion. The motion carried unopposed as amended.

7. 2010007901 Danny Wiley was the Reviewer

This complaint was filed by a consumer and alleged that the Respondent under-valued a residential property by communicating a value opinion of \$305,000. The Complainant contended that the Respondent failed to consider improvements to the property and finished basement square footage, and also failed to use appropriate comparables because the subject is a registered historic home.

The Respondent stated in his response letter that the subject property did not have any plaques or historical markers located on site and the list of repairs made to the subject by the owner were very high based on his research in Marshall & Swift for these costs. Many of the costs were for deferred maintenance. He indicated a building sketch was made of the property and gross living area and bedrooms were reported according to profession standards.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The allegations in the complaint appear to be without merit. The property description appears to be accurate. The comparison approach was developed using the best data available as of the appraisal date.

License History: Registered Trainee 1/31/1995 to 6/21/2002
 Certified Residential RE Appraiser 6/21/2002 to Present

Prior Complaint / Disciplinary History: None

Recommendation and Reasoning: Counsel and the Administrative Director recommend that the complaint be **DISMISSED**.

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

8. 201001015 Danny Wiley was the Reviewer

This complaint was filed by a consumer and alleged that the Respondent over-valued a residential property because Respondent failed to adequately inspect the property, failed to report deferred maintenance, misreported the acreage, and failed to analyze the listing history.

The Respondent stated in his response letter that the Complainant believes the property was over-valued because of the loan amount, but he indicated he was not privy to the loan amount, only the purchase contract information. Respondent states that he is not a qualified expert in wells, but the well is visible in the rear photo of the house. Respondent states that he does not check the walls of the house for insulation and does not know whether there were cracks around the seals of the windows. Respondent states that the deed reports the size of the lot as 1.893 acres and his appraisal reports the property as 2 +/- acres and that the difference would not affect the value opinion.

EXPERT CONCLUSIONS [alleged violations included within brackets]:

- The subject property was not adequately identified. The fact that the subject site was being created via the subdivision of a larger site was not disclosed.
- The reported analysis of the listing omitted significant information.
- MLS is not listed as a data source for two of the comparables. It is not clear if the MLS was used as a data source.

The subject property was not adequately identified in the appraisal report. The appraisal report states that the subject property is parcel 11.02 on Map 105. However, at the time of the appraisal parcel 11.02 contained 6.89 acres. The subject property (house and 1.893 acres) was created by a subdivision of parcel 11.02. A deed contained in the workfile documents submitted by the Respondent indicates that the subdivision of the tract did not occur until July 25, 2008 and the effective date of the appraisal was July 22, 2008. That deed identifies the subject site as, "A Portion of Map 105 Parcel 11.02." There is nothing in the appraisal report to indicate that the subject property was part of a larger tract that was to be subdivided. There is no site plan, legal description, or other documentation in the appraisal report that adequately identifies the subject tract. The appraisal was done "as is," but since the 1.893 acre tract had not yet been created, the appraisal should have been done subject to the hypothetical condition that the smaller tract had already been subdivided from the larger tract, and the report should contain the

disclosures required for the use of a hypothetical condition. [SR 1-2(e) (i), SR 2-2(b) (iii), SR 1-2(g), SR 2-2(b) (x)]

The report states that the subject property had been listed for sale with an asking price of \$139,900. The MLS listing included in the workfile documents (MLS 3145479) indicates that the listing at \$139,900 was a listing of the home with approximately seven (7) acres. The subject of the appraisal was the home and approximately two (2) acres. This was not addressed. [SR 1-5(a), SR 2-2(b) (viii)]

The appraisal report states that Sale one (1) has 1,760 square feet of gross living area, and the report indicates that this data was taken from public records. However, the CRS data sheet included in the workfile documents indicates that the home has 2,127 square feet of gross living area (1,392 square feet on the main level and 735 square feet on the upper level). The MLS listing for Sale one (1) indicates that the home has 2,092 square feet. The workfile documents contain no information indicating that the home has 1,760 square feet.

The size adjustments used in the appraisal report were based on \$20 per square foot. If that rate was applied to the size reported in the CRS for Sale one (1), the result would be a size adjustment of -\$6,700 rather than the adjustment of +\$600 that was used in the report. The appraisal report states that Sale one (1) has three (3) bedrooms and 2.5 baths. The MLS listing states that it has four (4) bedrooms and 2.0 baths. This would also affect the adjustments to Sale one (1). [SR 1-1(b), SR 2-1(a)]

The appraisal report does not list MLS as a data source for Sales one (1) and three (3). The room counts and gross living areas reported in the MLS listings differ from the information in the appraisal report. If MLS was used as a data source, then the report does not accurately report the data sources. [SR 2-1(a)]

License History: Certified General RE Appraiser 12/20/1991 to Present

Prior Complaint / Disciplinary History: None

Recommendation and Reasoning: Counsel and the Administrative Director recommend that given the Respondent's disciplinary history and the substantive nature of the violations alleged that the Respondent be offered a consent order imposing a civil penalty of one thousand dollars (\$1,000.00) and successful completion of a fifteen (15) hour USPAP course, fifteen (15) hour Residential Report Writing and a fifteen (15) hour Site Valuation and Cost Approach course.

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

9. 201002552

This complaint was filed by a home seller and alleged that the Respondent under valued a residential property by indicating a value opinion of \$565,000.00 when the property was under contract for one (1) million dollars.

The Respondent indicated that he spent a great deal of time performing the appraisal and although he understands the complainant is disappointed with the value conclusion he stands by his appraisal.

On August 20, 2010 the Respondent surrendered his appraiser license. The Respondent states that he is retiring from the appraisal business due to his age and poor health. The Respondent anticipates spending very little time in Tennessee as he is a widower and has no immediate family in the area and therefore the Respondent requested the termination of his license.

License History: Certified General RE Appraiser 08/13/1992 to Present

Prior Complaint / Disciplinary History: 200902373 (closed by Consent Order)

Recommendation and Reasoning: Counsel and the Administrative Director recommend that the complaint against this Respondent be CLOSED as the Respondent is no longer licensed. In the event, the Respondent reapplies for licensure in Tennessee the complaint could be reopened for further review.

Vote: Mr. Phillips made a motion to accept the recommendation. Ms. Coleman seconded that motion. The motion carried unopposed.

**10. 200900948 Danny Wiley was the Reviewer
REQUEST FOR CONSENT ORDER EXTENSION/ REVISION**

A consent order was executed in this matter on March 9, 2010. The terms of the consent order required the Respondent to complete forty five (45) hours of corrective education and to pay a four thousand dollar (\$4,000.00) civil penalty within one hundred and eighty (180) days of execution. The Respondent paid five hundred dollars (\$500.00) upon execution of the consent order and indicates that he has sent a one thousand dollar (\$1,000.00) payment towards the civil penalty.

The Respondent states that he has had a difficult time meeting his financial obligations as his business has been negatively impacted by the economic climate. The Respondent states that he anticipated selling some personal property but to date he has been unable to make a sale. The Respondent states that business is picking up and he believes that he will be able to meet his financial obligations if granted an extension under the existing consent order. The Respondent requests that the payment schedule be revised according to the following payment plan: one thousand dollars (\$1000.00) within five (5) days of execution or automatic suspension of his license; five hundred dollar (\$500.00) payments according to the following schedule. October 31, 2010, November 30, 2010, December 31, 2010, January 31, 2011 & February 28, 2011- any missed payment would result in the automatic suspension of the Respondent's license.

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

Discussion of Rule Making Proposals

Legal Counsel, Aminah Saunders, submitted a draft of rule change proposals to the Commission members to review before discussion at the October meeting. She also submitted to the members the Departmental Legislation Request form for 2011, for use if the Commission members wished to submit recommendations for changes to the current real estate appraiser statutes. Mr. Carter requested that the director, Ms. Avers, send to each of the Commission members the current rules or proposed rules for North Carolina, California, Arkansas, Kentucky for regulation of Appraisal Management Companies so that the Commission members could compare and review the rules before the October meeting. Mr. Carter also asked legal counsel for information on the process for obtaining an expert witness and if

contracts needed to have USPAP instructor as a requirement. There was a discussion of whether or not the Commission could have a pool of pre-approved contracts for complaint reviews from several reviewers. Mr. Carter and Mr. Wade discussed possibly adding an exception for complaint reviews to not be required to comply with Standard 3 of USPAP.

Being no further business, the meeting was adjourned at 10:45 a.m.

Chairman, Thomas Carter

Nikole Avers, Administrative Director