



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

**October 10, 2011**

**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met October 10, 2011 9:00 a.m. CST, in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Nancy Point, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Nancy Point  
James E. Wade, Jr.  
Herbert Phillips  
Norman Hall  
Dr. Edward A. Baryla  
Rosemarie Johnson  
Michael Green  
Timothy Walton

**COMMISSION MEMBERS ABSENT**

Erik Sanford

**STAFF MEMBERS PRESENT**

Nikole Avers  
Aminah Saunders

**ADOPT AGENDA**

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

**MINUTES**

The August 15, 2011 minutes were reviewed. Mr. Phillips made the motion to accept the minutes as written. It was seconded by Ms. Johnson. The motion carried unopposed.

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## Experience Interviews

**Brett B. Mansfield** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Ms. Point was the reviewer and recommended approval of his experience request. Mr. Hall made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**Sheila Ellen Eaves** 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 her experience request. Dr. Baryla made the motion to accept the recommendation and Mr. Walton seconded the motion. The motion carried unopposed.

**Stephen Joe Hutchison** made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Wade was the reviewer indicated that although he found no issues with the reports submitted, none of the reports included the cost or income approaches to value. He recommended that a demonstration report be requested from the applicant showing these two approaches to value. Mr. Hall made the motion to accept the recommendation and Mr. Phillips 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. Phillips made a motion to accept Dr. Baryla's recommendations. Mr. Wade seconded the motion. The motion carried unopposed.

### October, 2011 Education Committee Report

Provider	#	Course name	Instructors	Hr.	Type	Rec.
TREES	1525	Uniform Appraisal Dataset (UAD)	Ron Oslin, Vicki Boyd, Carlos Carter	7	CE	for
ASFMRA	1526	Seminar for Functional and Economic Obsolescence	William (Bill) Gibbs	4	CE	For
Greater Tennessee Chapter of the Appraisal Institute	1527	Meet the Challenges of the Changing Real Estate Appraisal Profession	Jeffrey T. Miller, Lisa M. Jenkins Wells, George E. Knight Jr. , Bradley R. Carter, Ralph Griffin Jr. , Sandra McAlister Winter, Aaron Carone, William "Ted" Anglyn, Daniel M. Fries, Leslie P. Sellers, Jeffrey McComb Bowling	7	CE	for
Greater Tennessee Chapter of the Appraisal Institute	1529	Understanding & Testing DCF Valuation Models	Charles Crider	4	CE	for

### Individual Course Approval

Name	File #	Provider	Course Name	Hrs	Type	Rec.
William H. Bailey	319	The Appraisal Institute	Comprehensive Appraisal Workshop	24 (21)	CE	for
Jonathan Kernea	App.	America's Real Estate Academy, Inc.	15 Hour National USPAP	15	QE	for
Jonathan Kernea	App.	America's Real Estate Academy, Inc.	Real Estate Principles	30	QE	for
Jonathan Kernea	App.	America's Real Estate Academy, Inc.	Appraisal Procedures and Report Writing	45	QE	for
Thomas T. Donnelly	App.	Wilson Education Group	National USPAP Course - WEG 370	15	QE	for
Thomas T. Donnelly	App.	Wilson Education Group	Basic Appraisal Principles - WEG 400	30	QE	for
Thomas T. Donnelly	App.	Wilson Education Group	Basic Appraisal Procedures - WEG 401	30	QE	for
Thomas T. Donnelly	App.	Wilson Education Group	Residential Sales Comparison Approach - WEG 432A	15	QE	for
Thomas T. Donnelly	App.	Wilson Education Group	Introduction to Income Property Appraising - WEG	15	QE	for
Zachariah Gregory Dorris	3856	Ted Whitmer dba Comprehensive Appraisal Workshop	Comprehensive Appraisal Workshop	21	CE	for
Jeff Clipse	1935	America's Real Estate Academy, Inc.	Residential Market Analysis and Highest + Best Use	14	CE	for

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#### **AMC Registration Discussion**

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Jason Covington of Clarity AMC, visited with the Commission regarding registration requirements of Appraisal Management Companies. He indicated that some AMC's may be circumventing the registration process by contracting through another AMC in order to avoid the registration requirements and applicable laws in Tennessee. No vote was held on this topic it was an informational discussion only.

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## LEGAL REPORT

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**1. 2011006741 Mr. Michael Orman was the reviewer.**

A complaint was filed by a consumer and alleges that the Respondent was negligent in an appraisal and failed to report that the property was in a flood zone.

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

- The property was reported not to be in an Identified Special Flood Area. The reviewer's research found that the subject twenty (20) acre site is actually three contiguous sites, as noted in the report. The reviewer utilized CRS and the State of Tennessee Assessment Tax Map information and found that parcel 14.02 contains 10 acres and is in a flood zone. Parcel 14.04 is a five acre site and is located in a flood zone. Parcel 14.03 is a 5 acre tract and is in a flood zone. Parcel 14.02 and 14.04 appear to have improvements. Alamode/WinTOTAL, indicates that the subject property is located in a Special Flood Hazard Area (SFHA). The respondent indicated in the response letter that his data source (Alamode) indicated that the subject property was not located in a special flood hazard area. There were no attachments found in the report or any information in the work file supporting this statement. [Ethics Rule / Record Keeping: page U-9, lines 287-289]
- The appraisal report identifies the subject property improvements as follows; "Barn/Fencing/Shed Living Quarters". As noted earlier the appraisal report indicates that an interior and exterior inspection had been made. Based on the information provided in the report an intended user or reader of this report would expect some type of physical description of the improvements. No relevant characteristics of the improvements and any effect they have on value have not been described. No relevant conditions and/or depreciation factors that affect value have been reported or analyzed. The respondent provided photos of improvements in the appraisal report, which have been added to this report as attachments #9 and #10. [SR 1-1 (b)(c); SR 1-2 (e)(i); SR 2-1 (a)(b); SR 2-2 (b)(iii)]
- Sales Comparison Approach: The appraisal was reported on the "Land Appraisal Report" form. The sales comparison section of this report provides limited information. The comments provided state, "Sales used in this report were felt to be the best available sales based on similarities with the subject". The report further states, "Sales were taken from similar locations with respect to river influence as well as similarities in size". Based on the property plats included in this report and the tax map that was included in the report the subject property abuts River with little or no comments or analysis as to the influence on the subject and if this was a consideration in the analysis of the sales. Based on a review of the documents provided, online information provided by Court House Retrieval Service (CRS), the reviewer noted the following:

The information provided in the appraisal report on Sale #1 is appropriate but somewhat limited, according to information gathered from CRS. Living quarters were noted in the "EXTRAS" line, as equal to subject, but no other description or analysis was made. No indication offered as to verification of improvements. This sale does not have river influence nor is it in a flood zone. See attachment #11 for a copy of the CRS print out and Tennessee tax assessment/flood map. The lack of comments and/or analysis would keep the reader/intended user from being able to follow the reasoning or conclusions made supporting the use of this sale.

The information provided for Sale #2 was verified through CRS. As in sale #1 the report indicates that this property has living quarters. The report notes a positive 10% or \$261.00 adjustment. No indication was offered as to verification of improvements. No comments, analysis or support for this adjustment were provided. This property was not influenced by the river or flood zone and no discussion or analysis was provided.

Sale #3 was verified through CRS and CWTAR MLS and the information provided is appropriate. The report identifies that this sale is inferior in improvements resulting in a positive adjustment of 10% or \$316.00 and also identifies this sale as having superior living quarters resulting in a negative 15% or \$474.00 adjustment. No indication was offered as to verification of improvements or living quarters. Comments, analysis or support for this adjustment were not provided. This property was not influenced by the river or flood zone and no discussion or analysis was provided.

As part of the agreed scope of work noted in the engagement letter, it was requested that the appraisal report reflect an opinion of value based on the following: Market Value "As Is" with any cost to cure and a marketing time of 3 months with separate values for each house (considering the Cost, Sales, and Income Approach to Value as applicable) with recertification of value within 30 days after foreclosure". There was no discussion or analysis provided in the sales comparison approach, addressing the request that market value be based on a marketing time of 3 months, making it unclear if the sales were properly analyzed, the type and extent of research to address marketing time/value relationships and if the conclusions presented are within the agreed scope of work. The comparable sales used do not appear to have been properly verified and analyzed. It is not clear how subject's improvements were considered and how the improvements of the sales were compared and analyzed. Adjustments in the sales comparison approach of the appraisal report were unsupported and there is inadequate reasoning for the adjustments, with no clear analysis or conclusions presented. The lack of reasoning and analysis of the data presented has not been adequately presented. [Competency Rule; Scope of Work Rule; SR 1-1 (a); SR 1-4 (a); SR2-1 (a)(b); SR 2-2 (b)(vii); SR 2-2 (b)(viii)]

- Cost Approach: The report indicates that the Market and Cost Approaches were used in this report". There was not a cost approach attached to the report provided nor was a cost approach found in the work file provided by the respondent. There is no site value, market based cost estimates, no discussion or identification of any possible physical, functional, or external depreciation provided in the report. Recognized techniques or methods do not appear to have been employed nor has the lack or exclusion of the cost approach been discussed or supported. [SR 1-1 (c); SR 1-4 (b)(i)(ii)(iii); SR 2-1 (a)(b); SR 2-2 (b)(viii)]
- The reconciliation in the report did not reconcile quality and quantity of data used in the approaches to value. The report states, "Subject was felt to fall into the middle of the value range set forth. An opinion of value for the subject of \$3,000.00 per acre, for 20 acres, which is \$60,000.00, appeared to be reasonable, since this was a three month marketing time, the subject was held to the lower end of the value set forth by sales". This statement is confusing since no analysis or reasoning was provided to support the conclusion. Earlier in the appraisal report it was noted that the marketing time for the area was 4 to 6 months. This conflicting information has not been addressed. The time or days on the market for the sales were not provided and it is unclear if any analysis was made on the relationship between the sales time on the market and the final value conclusion. Report states that market and cost approaches were used, with market being the most reliable. The cost approach was not provided and the inconsistencies in the data used and lack of analysis in the sales comparison approach reduce the credibility of this approach, therefore reducing the credibility of the final value opinion. [SR1-6 (a)(b); SR 2-2 (b)(iii); SR 2-2 (b)(vii)]

In response to the specific allegations, the Respondent states that Alamode software, a standard means to verify flood zones, was utilized to determine whether the subject was in a flood zone and that the software failed to accurately report the flood zone. The Respondent states that another appraiser using the same software appraised the subject and also indicated that the subject was not in a flood zone. The Respondent states that since the appraisal the Alamode software has been updated and given the fact that both appraisers made the same conclusion regarding the flood zone, the problem lies with the software and not the appraisals. The Respondent states that the client, the lender knew the property was in a flood zone and failed to notify the appraiser.

The Respondent states that the appraisal was intended for internal use only by the lender for pre foreclosure collateral evaluation purposes and that the appraisal was an Exterior Only evaluation and any reference to an interior inspection is error.

As to the Sales Comparison Approach, the Respondent states that the subject abuts a River but no adjustment was necessary for the subject or comparable sales as there are various small rivers in this part of the state. The Respondent states that the adjustments made were based on differences between the subject and comparable sales that was based on conversations with local contractors and realtors about values of these types of improvements when compared to mobile homes. The Respondent states that sales information was also utilized and that matched pair analysis was not available. The Respondent states that there were very limited sales data available for *rustic, low quality living quarters attached to barns* therefore it was necessary to determine the differences in contributory value of the improvements and make adjustments. The Respondent emphasizes that the report was limited and designed for internal use only for collateral evaluation purposes.

The Respondent states that the engagement letter requires an "as is" value, cost to cure repairs, and a marketing time of three (3) months or less. The Respondent states that after a conversation with the lender and due to the limited appeal of the subject regardless of marketing time or repairs, the report would be for a three (3) month marketing time or less as that price would be the only practical option for moving the subject should there be a foreclosure. The Respondent states that the changes were oral and that although the Respondent requested a revised engagement letter, none was received. The Respondent concedes that typographical errors are contained in the Cost Approach and Reconciliation sections.

**License History:** Certified Residential 05/23/1994 – Present

**Prior Complaint / Disciplinary History:** None.

**Recommendation and Reasoning:** Counsel recommends the imposition of a Consent Order imposing payment of a five hundred dollar (\$500.00) civil penalty within one hundred and eighty (180) days of execution and a five (5) hour Data Verification Methods course, a fourteen (14) hour Site Valuation course and a seven (7) hour Sales Comparison Approach course to be completed within one hundred and twenty (120) days of the execution of the order. Counsel believes that the imposition of the educational requirements will assist the Respondent in becoming a more effective appraiser thereby protecting the interests of the public.

**Vote:** Mr. Hall made the motion to accept the education portion of the recommendation, but to not include a civil penalty in the consent order offer. Mr. Phillips seconded the motion. The motion was approved.

**2. 2011010351 Mr. Michael Orman was the reviewer.**

This complaint was filed by a lender and alleged that the Respondent communicated a misleading report by failing to accurately report the comparable sales data and indicating that the subject was 2.5 acres when it is 96 acres.

The Respondent submitted evidence that the work file was destroyed. As to comparable sale one (1) the Respondent states that the sale was a qualified state with improvements of a single family dwelling which was verified by the Assessor's tax card, deed and sale sheet. The house was torn down after the sale but the tax card does not state what year. As to comparable three (3) the Respondent states that the sales sheet stated the personal property was thirty thousand dollars (\$30,000.00) and the deed states the comparable three (3) has the right to use the boat slip. The Respondent states that the original deed recorded two (2) tracts, the one containing the subject was subdivided into a 5.082 acre tract and in 1993 conveyed as a 2.54 acre tract. As support the Respondent enclosed a copy of the original deed.

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

- Neighborhood: The neighborhood boundaries have not been adequately described and while there are characteristic and trend notations on the form there was a lack of analysis of these factors. A complete analysis of these market trends and conditions would be helpful in supporting the use of sales from greater distances. [SR 1-2(e)(i); SR 2-1 (b); SR 2-2 (b)(iii)]
- Sales Comparison Approach: Sales information provided in the report is lacking verification. While sale number one (1) was improved at the time of sale, the improvements were razed by the purchaser who is the adjoining land owner. There is no reasoning or analysis provided for this sale and to what level the purchaser's motivation affected the sales price. This sale was reported to have a boat slip included but no analysis was provided. The respondent provided information in his response that indicated he actually had the opportunity to gain or had this information available.

The Respondent did not provide any work file or other information on sale number two (2).

The Respondent provided information for sale three. This information indicates this sale included \$30,000.00 of furniture and two boat slips. This information was not addressed in the sales grid nor was any analysis offered. The size of the improvements attributed to this sale is unclear. The report indicates 2692 square feet, but the information provided by the respondent indicates 3067 square feet. The reviewer accessed CRS and the size of this sale is noted to be 3067 square feet. As noted earlier, the comparable sales information has not been collected, verified or reported adequately. Adjustments in the sales comparison approach of the appraisal report were unsupported and there is inadequate reasoning for the adjustments, with no clear analysis or conclusions presented. The lack of verification and analysis indicates that recognized methods and techniques have not been correctly utilized in the development of this report. [SR 1-1 (a)(b)(c); SR 1-4 (a); SR2-1 (a)(b); SR 2-2 (b)(vii); SR 2-2 (b)(viii)]

- Site Value/Cost Approach: The respondent provided three land sales from the State of Tennessee Real Estate assessment Data that was printed 4/8/2011, as support for the site value estimate. Subject is a small acreage site with these sales ranging in size from 1.85 acres to 2.6 acres. No analysis was offered as to how the final site value estimate was arrived. Based on the information provided in the appraisal assignment, and without any additional analysis, the site value indication is not supported. The report indicates that the "Reproduction Cost" was completed. According to the comments in the report, "Cost figures are calculated from the Marshall and Swift Cost Handbook and other information obtained

from local building contractors". It appears that a "Good" rating was used with the effective date of the information being 6/06. The reviewer found no supporting information or analysis in the report or the information supplied by the respondent that would allow the reviewer to recreate this approach nor does it appear that the recognized techniques or methods have been employed. [SR 1-1 (a)(b); SR 1-4 (b)(i)(ii); SR 2-1 (a)(b)]

- **Reconciliation:** The reconciliation in the report did not reconcile quality and quantity of data used in the approaches to value. Applicability and suitability of the approaches used have not been adequately reconciled. The report states that, "Both applicable approaches to value fall in range and are mutually supportive. Given the quality of available data, the figure indicated by the market approach is used as the final value". This statement is confusing since no analysis or reasoning was provided to support the conclusion. The cost approach does not produce credible results based on the lack of supporting data. Inconsistencies in the data used and lack of analysis in the sales comparison approach reduce the credibility of this approach, therefore reducing the credibility of the final value opinion. There appears to be a lack of analysis and insufficient information provided to enable any clients, and /or intended users to rely or understand the report. The analysis, reasoning and results are not conveyed in an appropriate manner therefore reducing the credibility of the report. [SR1-6 (a)(b); SR 2-2 (b)(viii)]

**License History:** Certified Residential 01/31/1992- present

**Prior Complaint / Disciplinary History:** 200207183 Consent Order imposing a three hundred dollar (\$300.00) civil penalty.

**Reasoning and Recommendation:** Counsel recommends the imposition of a Consent Order imposing payment of a five hundred dollar (\$500.00) civil penalty within one hundred and eighty (180) days of execution and completion of a seven (7) hour Cost Approach course, a seven (7) hour Residential Report Writing course, a seven (7) hour Sales Comparison Approach course and a seven (7) hours Scope of Work & Due Diligence course to be completed within one hundred and twenty (120) days of the execution of the order. Counsel believes that the educational requirements will assist the Respondent in addressing the issues identified by the reviewer thereby protecting the interests of the public.

**Note:** Mr. Green made a motion to accept the recommendation with the amendment that no continuing education credit be granted for the courses. The motion was seconded by Mr. Phillips. The motion carried unopposed.

**3. 2011018981 There was no reviewer in this matter.**

This complaint was filed by an appraiser and alleged that the Respondent an Internal Revenue Service Engineer performed an appraisal while unlicensed. In support of the allegation, the complainant provided a forty (40) page document entitled, *Review Appraisal Report with an Opinion of Value*.

The United States Attorney's Office represents the Respondent in this complaint matter. The Government responds that the Respondent is an IRS employee and was performing an evaluation of a Conservation Easement within the scope of Respondent's federal duties. The Government asserts that the State may not place licensing restrictions on federal employees. In short, the Government asserts that the Supremacy Clause of the United States Constitution prevents the State of TN from regulating the Respondent in this manner. In support of this position, the Government provides "a raft" of case law regarding the state's attempt at requiring licenses for federal employees. The Government also provided portions of the IRS Manual that specifically addresses the IRS Engineering program and functions.



**License History:** Unlicensed

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** Article VI, Section 2, of the U.S. Constitution provides that the "Constitution, and the Laws of the United States ... shall be the supreme Law of the Land." One of the earliest cases to interpret the Supremacy Clause of the United States Constitution is *McCulloch vs. Maryland*,<sup>1</sup> the 1819 Supreme Court case which involved the state of Maryland attempting to tax a federally incorporated bank. The Court found that if the State had the power to tax the institution then the State possessed the power to destroy that institution and in this respect State law would be superior to the federal government - a concept that is antithetical to the Supremacy Clause. In a line of decisions Courts have specifically addressed state licensing requirements for federal employees. In *Johnson v. Maryland*<sup>2</sup> a 1920 Supreme Court case, the state of Maryland arrested a U.S. Postal Service driver for driving without a state issued driver's license. The Court ruled that Maryland did not have the authority to regulate federal employees. The Court stated, "*The immunity of the instruments of the United States from state control extends to a requirement that they desist from performance until they satisfy a state officer upon examination that they are competent for a necessary part of those duties and pay a fee for permission to go on. Such a requirement does not merely touch the Government's servants remotely...it lays hold on them in their specific attempt to obey orders and requires qualifications in addition to those that the Government has pronounced sufficient. It is the duty of the Government to employ persons competent for their work, and that duty, it must be presumed, has been performed.*" In *Sperry vs. Florida*,<sup>3</sup> the Court found that the state of Florida could not enforce licensing requirements against attorneys performing federally sanctioned functions without a license. More recently, in *United States vs. Virginia*<sup>4</sup>, the Court found that the state of Virginia could not require licensing for investigators employed as contractors by the FBI. The Court stated in part, "state contractors cannot be required to satisfy state qualifications in addition to those qualifications that the Federal government has pronounced sufficient."

The Respondent in this case is an employee of the Internal Revenue Service. The report written by the Respondent is directed to another employee of the IRS and the IRS has promulgated rules and regulations regarding the role and function of the Engineer program including providing valuation services. Counsel is of the opinion that the current line of case law indicates that under the circumstances presented the State may not impose licensing requirements on an IRS employee acting within the scope of federal duties and recommends the complaint matter be CLOSED.

**Vote:** After some discussion, Mr. Walton made the motion to accept the recommendation. Dr. Baryla seconded the motion. Mr. Hall recused from vote. Mr. Green and Mr. Wade opposed the recommendation; all others voted to approve the recommendation. The motion carried.

**4. 2011025281 There was no reviewer in this matter.**

This complaint was filed by an AMC and alleged that the Respondent failed to employ proper appraisal methodology and techniques in a 2007 appraisal thereby failing to produce a credible appraisal.

The Respondent voluntarily surrendered the appraisal credential in August of 2010.

<sup>1</sup> McCulloch v. Maryland, 17 U.S. 316, 396 4 L. Ed. 579 (1819)

<sup>2</sup> Johnson v. Maryland, 254 U.S. 51, 41 S. Ct. 16 (1920)

<sup>3</sup> Sperry v. Florida, 373 U.S. 379, 83 S. Ct. 1322 (1963)

<sup>4</sup> United States v. Virginia, 139 F. 3d 984 (1998)

**License History:** Certified General 08/13/1992 – 08/24/2010.

**Prior Complaint / Disciplinary History:** 200902373 (Closed with Consent Order imposing a \$2500.00 civil penalty and completion of forty five (45) hours of education)

**Reasoning and Recommendation:** The Respondent is currently unlicensed. Counsel recommends CLOSE and FLAG should the Respondent reapply for licensure.

**Vote:** Mr. Hall made the motion to accept the recommendation. Dr. Baryla seconded the motion. The motion was approved unanimously.

**5. 2011006921 Mr. Sam Pipkin was the reviewer.**

This complaint matter was presented at the August 2011 TREAC meeting.

The complaint was filed by a relative of a client and alleged that the Respondent undervalued a twenty three (23) acre property which includes a residential dwelling, four (4) tenant homes, eight (8) barns and a working fruit farm. The complainant further alleges that the Respondent used an inappropriate form and did not provide an adequate site description.

The Respondent states that the complaint involves a family dispute involving a revocable trust and that the complainant is not the client but one of the client's eight (8) children. The Respondents states that the appraisal was to be used for estate planning purposes.

The Respondent's client indicates that the appraisal was performed as part of a revocable trust, that the client is the sole trustee and sole beneficiary of the trust which may be revoked at any time. The client indicates that the complainant is upset about a family issue and has chosen to take her frustration out on the Respondent with no regard for the consequences to the Respondent's professional career. The complainant states that they have worked with Respondent in the past and finds Respondents work to be excellent and professional. The client states that they are hopeful that the matter will be resolved quickly and in Respondent's favor and are of the opinion that the complainant does not have standing to complain about the appraisal.

A second family member states that the complainant has a personal issue with the Respondent and the complaint was actually initiated by a competitor.

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

- The twenty three (23) acre site is inadequately described in the report. The appraisal does not address the type of land, soil type, amount of cleared land, row crops or other aspects of the subject. Characteristics of the property that is relevant to the type and definition of value and the intended use of the appraisal. [SR 1-1 (e)]
- There is no description of the barns located on the property, however there is a fifteen thousand dollar plus (\$15000.00) adjustment for comparable one (1), a plus twenty five thousand dollar (\$25000) adjustment for sale two (2) and plus fifteen thousand dollar (\$15000.00) adjustment to sale three (3). The Respondent plus adjusted all three sales ninety seven thousand dollars (\$97000.00) for the rental houses on the property. There is no support for the contributory value of the additional dwellings and barns in the report. [SR 2-1, SR 1-6]

**License History:** Registered Trainee 08/18/1998 - 11/21/2000

Certified Residential  
Certified General

11/22/2000 – 11/01/2007  
11/02/2007 - Present

**Prior Complaint / Disciplinary History:** None.

**Previous Recommendation:** Consent Order imposing a five hundred dollar (\$500.00) civil penalty and completion of a thirty (30) hour General Appraiser Report Writing course.

**Updated Reasoning and Recommendation:** An informal conference was held with the Respondent on September 16, 2011. As to the description of the subject property the Respondent states that the appraisal was performed related to a revocable trust and as the intended user, the subject property owner, has lived and worked on the subject property in excess of forty (40) years the description of the property was adequately described as the intended user is most familiar with the subject. As to the adjustments made for the additional dwellings and barns for the comparable sales the Respondent provided additional data to support the adjustments. The Respondent states that a total of sixteen (16) properties were appraised for this client and the Respondent erroneously failed to provide the entire work file. Given the Respondent's prompt response, the lack of disciplinary history and the nature of the appraisal assignment Counsel recommends CLOSURE of the complaint matter.

**Note:** Mr. Wade made the motion to accept the recommendation. Mr. Phillips seconded the motion. The motion carried unanimously.

**6. 2011019131 Mr. Michael Orman was the reviewer**

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property by utilizing inappropriate comparable sales. The complainant further alleges that in the supplemental addendum the Respondent misreported the predominant neighborhood value.

The Respondent concedes that the statement regarding predominant neighborhood value was confusing and that the statement was inadvertently left in the appraisal report. As to the comparable sales used the Respondents states that although he understands the Complainants outrage regarding the reported value of the subject the sales used in the appraisal were appropriate. The Respondent states that the subject property is a one (1) bedroom home with 700 square feet of GLA and an additional 700 square feet of finished basement space with two (2) bedrooms and a bathroom. The disparity between the subject and other properties in the area are compounded as many dwellings in the market area have undergone extensive renovations with high end finishing's. The Respondent states that extreme care was used to make sure the comparable properties used in the report were actually comparable.

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

Sales Comparison Approach: The appraiser noted in the report indicates that subject property, "is well maintained and projects a typical curb appeal. No functional, physical or external obsolescence is observed or noted. The subject is 54 years old and has no visible deterioration, but has been extensively renovated, continually renewed and well maintained resulting in a 25 year effective age". The indication presented by these statements would be that subject property is in good updated marketable condition, with no noted physical conditions that would have an adverse effect on subject property's marketability. In the course of completing this review assignment the reviewer processed information from the documents provided. These included the respondent's work file, realtracs/MLS, and CRS, and noted the following:

Sale #1 was a sale that transferred from a lending institution to an individual. The MLS printout, which is part of the respondent's work file, stated that the property was sold in "as is" condition. The reviewer interviewed

the listing and was told that this sale was an investor purchase and the property was in need of updating and had water problems in the basement that needed correction. The report under review indicates that this sale was in "Good" condition at time of sale. No analysis and/or explanations were offered in the report addressing the verification and/or condition of this sale.

Sale #2 was an investor purchase. The listing agent indicates that this property had not been maintained and was in need of repairs. "*This property was purchased to renovate*". There was no analysis or explanation offered in the report addressing the condition of this sale as it relates to the condition of the subject property.

Sale #3 was an investor purchase. In an interview with the listing agent it was discovered that this property was being utilized as a duplex. The agent indicates that the property had two meters and two kitchens and that the property was in pretty rough shape. The agent told the reviewer that at time of sale the basement was "in poor shape to live in" and the plumbing and wiring was in need of updating. At time of sale this property needed a roof, didn't have a driveway and according to the listing agent needed \$25,000 to \$50,000 in repairs. There are no comments in the report signifying that verification of this sale was made. There was not any discussion or analysis made to how the condition of this sale relates to the subject property.

Sale #4. The listing agent indicated that the property was in average condition and financed with FHA financing, with 4% concessions being paid by the seller, which is different from the reported conventional financing and lack of concessions noted in the report.

Sale #5 appears to be a sale of a property in good condition. The property sold with FHA financing with \$3,000.00 seller concessions. This information was not noted in the report under review. This information was found in the respondent's work file but the report indicated that the concessions were unknown and it sold with conventional financing. Please see attachment #9.

It appears that the adjustments utilized in the report have not been adequately supported based on the information provided in the report and/or work file. Some of the information reported about the sales used in the report does not appear to match the information provided in the support documents located in the work file. The sales used in this report do not appear to have been properly verified, analyzed or reported. The lack of this verification reduces the credibility of the sales used in this approach to value, and also questions the quality of the sales used, therefore reducing the credibility of any conclusions and value indications offered in this approach to value. [ SR 1-1(a)(b)(c); SR 1-4(a); SR 2-1(a); SR 2-2(b)(viii)]

This information appears to be adequately reported, with exception of the PREDOMINATE NEIGHBORHOOD VALUE section on the supplemental addendum, which indicates that subject's market value is \$160,000. [SR 1-1(c)]

**License History:**

Registered Trainee	10/31/2005 – 12/12/2007
Certified Residential	12/13/2007 - present

**Prior Complaint / Disciplinary History:** 200901251 Closed w/ Consent Order (\$1000.00 civil penalty and forty five (45) hours of corrective education).

**Reasoning and Recommendation:** The Respondent was required to take a fifteen (15) hour Site Valuation course and a thirty (30) hour Appraisal Procedures course pursuant to a 2009 consent order. The coursework was completed in June of 2010 and the appraisal assignment at issue was completed in July of 2010. The allegations contained in the prior consent order bear some similarity to the current allegations. Given the Respondent's prior discipline and some concern as to whether the corrective education had the desired impact Counsel recommends a Consent Order imposing a one thousand five hundred dollar (\$1500.00) civil penalty

payable within one hundred and eighty (180) days of execution and a fourteen (14) hour Residential Report Writing course, a five (5) hour Data Verification Methods course and a seven (7) hour Scope of Work course to be completed within ninety (90) days. The Respondent would also be placed on a one (1) year probation during which time the Administrative Director would request the work log at the one hundred and twenty (120) day mark and request at least one (1) appraisal report for review to ensure that the interests of the public are adequately protected.

**Vote:** Mr. Phillips made the motion to accept the recommendation. Mr. Wade seconded the motion. The motion carried unanimously.

**7. 2011022451            There was no reviewer in this matter.**

This complaint was filed anonymously and alleged that the Respondent an unlicensed person performed an appraisal assignment for a mortgage lender.

In support of the allegation the complainant submitted a document called a "Real Estate Property Evaluation" signed by the Respondent and listing the client as a lender. The first sentence states, "This report is a property evaluation, not an appraisal." The reports states that this "is an internal document of Lender and was designed for their exclusive use..."

**License History:** Unlicensed.

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** T.C.A. 62-39-104 states in relevant part, *This chapter does not apply to any evaluation of the value of real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by the institution; provided, that: (A) The applicable federal regulator does not require an appraisal by a state-licensed or state-certified appraiser for the loan or trust; (B) The evaluation is used solely by the financial institutions in their records to document the collateral or asset value; (C) The evaluation shall be labeled on its face "this is not an appraisal.* The report presented appears to be an evaluation as contemplated by T.C.A. 62-39-104 as such Counsel recommends the DISMISSAL of the complaint matter.

**Vote:** Mr. Phillips made the motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unanimously.

**8.            201001311/201000360 .Request for Additional Time to Comply with Consent Order**

This complaint was resolved by Consent Order executed February 14, 2010.

The complaints involved two appraisal reports performed in 2007 and 2008. The disposition required the payment of a two thousand five hundred dollar (\$2500.00) civil penalty, a thirty (30) days suspension, completion of seventy five (75) hours of corrective education and a one (1) year probation, the terms of the consent order required completion of the education and civil penalty terms within six (6) months of the consent order.

At the time of the execution of the Consent Order, the Respondent states that he was undergoing colon cancer treatment and grossly underestimated the detrimental impact the thirty (30) day suspension would have on his appraisal practice. As a result of the suspension, the Respondent states he was no longer eligible to do HUD appraisals and his employer subsequently let him go. The Respondent states that due to substantial financial

constraints he has been unable to complete the course work or pay the civil penalty. The Respondent states that he has completed the fifteen (15) hour Site Valuation course which was offered through TREES and he is currently signed up to take a second course in late October. The Respondent requests additional time to complete the course work and pay the civil penalty.

**Reasoning and Recommendation:** In the event the Commission is amenable to allowing the Respondent additional time Counsel recommends that the Respondent provide evidence of completion of thirty (30) hours of course work no later than October 31, 2011. The Respondent would be required to provide evidence of completion of an additional forty five (45) hours of corrective education no later than January 31, 2012 and the balance of the civil penalty no later than February 14, 2012. The Respondent would be advised that failure to meet any of the new terms could result in suspension of Respondent's license until all terms are met.

**Vote:** Mr. Phillips made the motion to accept the recommendation. Mr. Wade seconded the motion. The motion carried unanimously.

**9. 2011007431 Mr. Sam Pipkin was the reviewer in this matter.**

This complaint was filed by a lender and alleged that the appraisal review performed by the Respondent did not comply with USPAP and that there was no support for the stated value conclusion.

The Respondent states that alternate sales were provided and shown in the grid and the alternate sales support the value conclusions. The Respondent states that the information was previously provided to the lender but may not have been received.

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

The reviewer found no violations of USPAP.

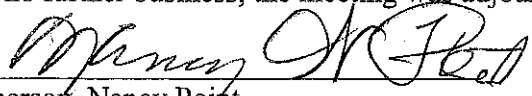
**License History:** Certified Residential 01/29/2010 - Present


**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** Counsel recommends the DISMISSAL of the complaint matter as no violations of USPAP have been identified.

**Vote:** Mr. Hall made the motion to accept the recommendation. Dr. Baryla seconded the motion. The motion carried unanimously.

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Being no further business, the meeting was adjourned at 10:00 am.

  
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Chairperson, Nancy Point

  
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Nikole Avers, Executive Director