



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

**January 14, 2013 - Minutes**  
**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met January 14, 2013 at 9:00 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Norman Hall, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Norman Hall  
Michael Green  
Rosemarie Johnson  
Mark Johnstone  
Nancy Point  
Herbert Phillips  
Jason Covington  
Timothy Walton  
Dr. Edward A. Baryl

**COMMISSION MEMBERS ABSENT**

**STAFF MEMBERS PRESENT**

Nikole Avers, Keeling Baird, Laura Betty, Jesse Joseph

**ASC POLICY MANAGERS PRESENT**

Kristi Klamet, Denise Graves, Claire Brooks

**ADOPT AGENDA**

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

**ADOPT ROBERTS RULES OF ORDER FOR 2013 AND SIGN CONFLICT OF INTEREST FORMS**

Mr. Phillips made the motion to adopt Roberts Rules of Order for the 2013 year and it was seconded by Ms. Point. The motion carried unopposed. Conflict of interest forms were signed and returned to Ms. Avers.

## **MINUTES**

The December 10, 2012 minutes were reviewed. Mr. Johnstone made the motion to accept the minutes as written. It was seconded by Mr. Covington. The motion carried unopposed.

## **EXPERIENCE INTERVIEWS**

**Oby Terrell Brewer** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Ms. Point was the reviewer and made a motion for approval of his experience request. Mr. Phillips seconded the motion. The motion carried unopposed.

**Richard Hinkle** initially applied for upgrade from register trainee to become a licensed real estate appraiser in October of 2011. He participated in an experience interview with Mr. Phillips at that time and the Commission voted in November of 2011 to approve his experience. On November 16, 2011, Mr. Hinkle received his notification of approval to take the State Licensed Real Estate Appraiser examination. The letter indicates to the applicant that they may have up to four (4) attempts in the twelve (12) month period from the date of the letter. Mr. Hinkle indicated in a letter dated December 18, 2012 which was submitted with a new application to become a licensed real estate appraiser that he failed to pass the exam and is requesting that the Commission waive a second experience review with this application since his experience was reviewed with during the previous application period.

### ***1255-01-.04 APPLICATION FOR APPRAISER LICENSE OR CERTIFICATE.***

*Each applicant shall complete all application and examination requirements within one (1) year of the date the Commission grants approval for the applicant to take the required examination. An applicant may not take the required examination more than four (4) times within the one (1) year period following approval; thereafter, an applicant wishing to take the required examination shall reapply and submit a new application fee. The Commission may grant exceptions to the requirements set forth in this paragraph upon appropriate individual request.*

### **Director Recommendation:**

The director recommends approval of this applicant's request to waive the experience review and allow him approval to take the exam again up to four (4) times within the one (1) year period following approval.

**Commission Vote:** After discussion on the request, Mr. Green made a motion to require the applicant to complete an experience interview in the hopes that the experience interview can help the applicant identify areas to improve so future examination attempt will be successful. Mr. Johnstone seconded the motion. The motion passed unopposed.

## Education Committee Report

Dr. Baryla reviewed the education and presented his recommendations to the Real Estate Appraiser Commission, as seen below. Ms. Avers noted an issue with the computer licensing system being unable to record ½ hour courses request. Dr. Baryla's made a motion to approve the below courses and recommended allowing the school to resubmit for reconsideration without additional fee if they want the courses considered as a 7 hour (part a & b) course or other consideration. Ms. Johnson seconded the motion. The motion carried unopposed. \* Subsequent to the meeting the director was able to work with the computer systems personnel to record ½ requests to approved course listing. (Represented in March)

## January 14, 2013 Education Committee Report

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Rec.
Dennis Badger & Associates	1625	Estimating Value By Extraction	Michael E. Deweese Dennis Badger Thomas P. Veit John B Hoover	3.5	CE	For 3 hours
Dennis Badger & Associates	1626	Appraising Residential Properties in a Declining Market	Michael E. Deweese Dennis Badger Thomas P. Veit John B Hoover	3.5	CE	For 3 hours
Dennis Badger & Associates	1627	Is the Comparable Comparable?	Michael E. Deweese Dennis Badger Thomas P. Veit John B Hoover	3.5	CE	For 3 hours
Dennis Badger & Associates	1628	Adjusting for Seller Concessions	Michael E. Deweese Dennis Badger Thomas P. Veit John B Hoover	3.5	CE	For 3 hours

### Instructor Approval Requests

Instructor	Course Provider	Course Number	Course Name	Hours	Type	Rec.
John B Hoover	Dennis Badger & Associates	1481	Appraisal Regulations and Guidelines Update	7	CE	For
John B Hoover	Dennis Badger & Associates	1578	Appraisal Review Essentials	7	CE	For
John B Hoover	Dennis Badger & Associates	1579	Estimating Value by Extraction	7	CE	For

### **Application Review – Curtis Brian Bearden**

On December 20, 2012 an application to become a certified general appraiser (based on reciprocity with the State of Georgia) was received by staff from applicant Curtis Brian Bearden. Mr. Bearden also holds a credential in the State of North Carolina which was granted through reciprocity.

The application included marking “yes” to character question 1 on the application, which reads in part, “have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere?” Mr. Bearden had two disciplinary actions in Georgia one order was dated February 16, 2012 and the other was dated December 7, 2004.

He indicated the first disciplinary action was when he was new to the appraisal profession and he indicated was an error in judgment on his part and poor training from his former supervisor.

The second disciplinary matter he thought was not “actual” or public discipline at the time. He indicated that he disputes the facts agreed to in the order. He concluded that since the discipline he has continued his education and is a candidate for designation with the Appraisal Institute.

### **Staff Recommendation and reasoning:**

This matter was brought before the Commission because of the recent disciplinary history of the applicant. Commission policy #5 indicates the director may bring any application before the Commission for consideration.

It is not the intention of the director to bring this matter for consideration of the facts included the consent orders and whether the applicant should or should not have been disciplined either matter in Georgia.

The director recommends approval of this application for certification based on reciprocity as the applicant has a credential in good standing at this time in Georgia.

#### *1255-6-.01 RECIPROCAL AGREEMENTS.*

*(1) If, in the determination of the Commission, a state or territory of the United States is deemed to have established meaningful requirements for the licensure and certification of real estate appraisers, and that state grants reciprocity to Tennessee licensees and certificate holders, then the Commission shall grant reciprocal rights to real estate appraiser licensees and certificate holders which are in good standing in that state.*

*(3) If a licensee or certificate holder's out-of-state real estate appraiser license or certificate has been revoked, suspended, denied renewal or restricted, then the Commission may revoke, suspend, refuse to renew or restrict the licensee's or certificate holder's State of Tennessee real estate appraiser license or certificate.*

**Vote:** Mr. Johnstone made the motion to approve the application and Mr. Green seconded the motion. The motion carried unopposed.

### **Course Fees “State” university question**

The director brought an inquiry from Northern Michigan University to as if the fee waiver for “state universities, colleges and junior colleges” applied to out-of-state universities or just those in Tennessee. Rule reference 1255-02.13 (4). The school had submitted a course renewal fee, but wondered if they could request a refund based on this rule. Mr. Covington made a motion to refund this university’s renewal fee as the rule does not specify the exemption applies only to colleges or universities in Tennessee. Mr. Phillips seconded the motion. The motion passed. This rule can be addressed for clarification at a future rulemaking discussion and subsequent rulemaking hearing.

## **Legal Report**

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### **1. 2012013811**

This complaint was filed by a mortgage lender and alleged that the Respondent communicated a misleading appraisal of a manufactured house by failing to report pertinent data and failing to appropriately select and analyze sales data, which caused a significant overvaluation of the property.

The Respondent sent a response stating after receiving notice of the complaint, he searched his files on the subject property without success. Respondent also indicated that in accordance with the provision allowed in the USPAP Ethics Rule on record keeping, the files were destroyed shortly after the requisite 5-year period. Respondent explained that he attempted to travel to the location of the subject property, in an attempt to remember any events relating to the property. After traveling to the subject location, Respondent made the following points:

- The subdivision was developed as a manufactured home subdivision, and Respondent had significant challenges with the mortgage company on gaining complete, correct, and accurate information relating to the appraisal.
- The property is located in a mountainous, rural, sparsely populated county with few recorded comparable sales. The size of the county is 522 square miles with a population of 19,757.
- At that time, the property assessor was not current with posting sales of closed transactions.
- Respondent indicates that the comparable sales were the best available to use, and he had no intent to use disqualified transactions.

In closing, Respondent states that the problem with this report, from his perspective, was a less than professional mortgage originating company, coupled with poor underwriting standards by whoever approved this loan.

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

- There were no statements made on what efforts were made to obtain a copy of the sales contract.
- The neighborhood section lacked information about the area, and the boundaries were not accurate. [SR 1-2(e)(i), SR 2-2(b)(iii)]
- The report contained no lot sales or site value development or reconciliation as support for the site value. [SR 1-4(b)(i), SR 2-1(a)&(b), SR 2-2(b)(viii)& (ix) Comment]
- The comparable sale information on the GLA does not agree with the CRS or MLS records. Comparable sales are not disclosed in the prior year sale section. There are confusing sales dates, and the amounts are not explained. [SR 1-1(b)&(c), SR2-1(a)&(b)]

**License History:** Certified Residential 12/21/1991-Present

**Prior Complaint/ Disciplinary History:** (94175-Closed; 941883-Closed; 943108-Closed; 944222-Closed; 944423-Closed; 200900361-Closed).

**Reasoning and Recommendation:** The reviewer found that the report was lacking in completeness and credibility, due to the report errors by Respondent. The appraisal at issue was performed in May 2005 (over 7 years ago), at a time when the Respondent had been Certified Residential for about fourteen (14) years. Respondent has had no disciplinary action taken against him in the past. The Complainant did not file the original complaint until more than 7 years after the appraisal was completed. Respondent is not required to maintain a workfile for longer than the requisite 5-year period. As such, Counsel recommends Closure with a Letter of Warning regarding the issues/errors noted by the reviewer.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Covington. After some discussion the motion and second were withdrawn. Mr. Johnstone made a motion to change to **Closure with a Letter of Instruction**. Mr. Phillips seconded the motion. The motion carried unopposed.

## 2. 2012011871

This complaint was filed by a Government Sponsored Enterprise (GSE) and alleged that Respondent communicated a misleading residential appraisal report by misreporting the locations of three comparable sales indicating that they were closer to the subject property, failing to verify GLA of the comparable sales, failing to support adjustments made, failing to adequately summarize neighborhood information, and failing to support the cost approach.

The Respondent sent a very lengthy response stating, summarily, that he has been performing appraisals in this area for over thirty-four (34) years, and, therefore, has more than a working knowledge of the area. In addition, Respondent indicated that none of the comparable sales he considered in the appraisal report were within the city

limits that were alleged by Complainant in the complaint. Respondent also stated that the cost approach was completed for the subject property, and that the cost approach was given some weight; however, the greatest weight was given to the market approach to value.

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

- The neighborhood section lacked information about the area, and the boundaries were not accurate. [SR 1-2(e)(i), SR 2-2(b)(iii)]
- The sources of comparable sales data characteristics are not accurately disclosed. Prior sales of subject/comparable sales are not properly summarized in the report. [SR 1-4(a)&(b)(i),SR 2-2(b)(viii)]
- The report failed to summarize support for site value. [SR 1-4(b)(i), SR 2-2(b)(viii)]
- The report contained data referencing material dated after the date of the report. Copies of reports were not maintained in the workfile. [ETHICS RULE: Record Keeping section]

**Licensing History:** Certified Residential                      3/23/1992-Present

**Disciplinary History:**            201102335 (Consent Order authorizing a \$500 Civil Penalty, 30 hour Sales Comparison Approach course and 15 hour Site Valuation & Cost approach course)

**Reasoning and Recommendation:** The reviewer found that the report was lacking in completeness and credibility, due to the report errors by Respondent. The reviewer noted that the appropriate appraisal methods and techniques were not developed by Respondent. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing. No additional education recommended because the education from the prior consent order was taken in 2012 which was after the effective date of the appraisal in this report.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Ms. Johnson. Mr. Green during discussion indicated that he thought some of the items above were debatable. After some discussion the motion and second were withdrawn. Mr. Walton made a motion to change to **Closure with a Letter of Warning**. Mr. Covington seconded the motion. The motion carried unopposed.

**3.        2012007411                      RE-PRESENTATION**

**\*\*\*\*This matter is being re-presented from the October 2012 Commission meeting.**

This complaint was filed by a consumer and alleged that the Respondent misreported the finished basement on the subject property. The appraisal that is the subject of this complaint was performed on 2/29/12, when the Complainant had a purchase contract on the house. Complainant alleges that since the appraisal, he has learned that the

finished basement does not have heat/air supplied to any of it, however, the appraisal report designates it as “finished” with a “finished basement” value included.

The Respondent states that FHA does not require a “vent” or any permanent heating source be installed, rather only that it must be adequate for healthful and comfortable living conditions. Respondent states that that is defined as providing and maintaining a temperature of at least 50 degrees Fahrenheit in all living areas and areas containing plumbing systems. Respondent claims that the basement area had an established utility and three sides that were below or partially below grade and would be capable of maintaining 50 degrees. Respondent states that reporting the basement as living area is correct, and the complaint is not warranted.

**Licensing History:** Registered Trainee 10/19/1998-1/9/2002  
Certified Residential 1/10/2002-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The Commission had previously authorized a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty and a fifteen (15) hour Residential Report Writing course. After the Consent Order was sent to Respondent, Respondent’s attorney requested to meet with Executive Director Avers and myself to discuss the Order. After meeting with Respondent’s attorney on December 13, 2012, Director Avers and I discussed the Order and the matters surrounding the Order and determined that there were inconsistencies that would warrant **Closure of the matter with a Letter of Warning**, in lieu of the previously authorized Consent Order and civil penalty. Respondent has been licensed for twelve (12) years with no prior disciplinary action against her.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Green to open discussion. There was discussion on this matter and a roll call vote was held. Mr. Walton and Mr. Green opposed the recommendation to close with a letter of warning. All others voted to approve the recommended disposition. The motion passed.

#### **4. 2012017491**

This complaint was filed by a consumer and alleged that the Respondent performed an appraisal report containing multiple inaccuracies, including items such as incorrect square footage and incorrect number of full and half-baths. Complainant also alleged that Respondent used comparable sales that were not comparable to the subject property.

The Respondent sent a response stating that the subject property had unfinished area on the second level and the basement level, which were not included in the GLA of property, and the first floor has two-story ceiling area, which is noted in the report. This was the only response provided by Respondent.



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

- The appraisal report fails to provide adequate reconciliation for the sales comparison approach and the site value opinion. [SR 1-6(a)]
- The appraisal report fails to summarize and support the following opinions and conclusions: opinion of site value, opinion of value in the sales comparison approach, opinion of value in the cost approach relating to external obsolescence. [SR 2-2(b)(viii)]
- The appraisal report fails to summarize the opinion of highest and best use, both as-improved and as-vacant. [SR 2-2(b)(ix)]
- The appraisal incorrectly describes the physical characteristics of the subject by providing an inaccurate site description. [SR 2-2(b)(iii)]
- The appraisal report has sufficient cumulative violations to support a lack of sufficient care to avoid errors that may affect the assignment results. [SR 1-1(b)]
- The appraisal report has sufficient violations so as to result in insufficient information for intended users to understand. [SR 2-1(b)]
- Failure to understand and apply proper appraisal techniques with regard to economic obsolescence in the cost approach represents a lack of competence in applying depreciation in the cost approach. [Competency Rule (lines 330-337)]

**Licensing History:** Certified Residential 12/23/1991 - Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the issue of inaccurate square footage as alleged by Complainant should be dismissed. The Complainant has provided no additional support for the alleged inaccuracies regarding bath count; the reviewer found no supportable inaccuracies to support the Complainant's allegation. Comparable sales are limited for this assignment, and the appraiser used the best available as of the date of the appraisal. However, the reviewer did find multiple violations of USPAP within the appraisal report, so as to warrant disciplinary action against the Respondent. As such, Counsel recommends a Consent Order authorizing a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of this Consent Order and a fifteen (15) hour Residential Appraiser Site Valuation and Cost Approach course and a fifteen (15) hour Residential Report Writing and Case Studies course to be satisfied within one hundred eighty (180) days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Dr. Baryla made the motion to accept the recommendation and it was seconded by Mr. Green. Subsequently, Mr. Walton recommended the civil penalty be removed from the disposition. Mr. Covington seconded the motion to remove the civil penalty

portion of the recommendation. A vote was called; Mr. Green opposed, all others voted in support of the amended recommendation. The motion passed.

#### **5. 2012018651 and 2012015211 (two complaint matters, same Respondent)**

##### **2012018651**

This complaint was filed by a consumer/potential homeowner and alleged that Respondent delayed delivering the appraisal report. In addition, the complaint alleged that the report contained numerous misspellings, contained incorrect information, and neglected to mention that the property was lake-front property. The complaint also alleged that the comparable sale properties utilized in the report were not in the same property area.

The Respondent states in his response that in regard to “lake front property,” this property borders land that is owned by a separate entity, and that this entity’s property lies between the subject property and the lake, according to the property assessor’s records. Also, Respondent states that in the contract, it is stated that the seller will not clear out brush that leads to lakefront as that property belongs to the separate entity, and the home owner needs a permit from this entity to do so. Respondent states that the property does not go to the lake. Respondent denies that the grammar used in the report was incorrect, as was stated in the complaint. According to MLS, this property did not close, and expired. Respondent states that neither the seller, nor the seller’s agent, nor the buyer’s agent questioned the appraisal. Only the buyer questioned the appraisal because she did not get what she wanted. Respondent states that the complaint is without merit and should be dismissed.

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

- There is no opinion of reasonable exposure time stated in the appraisal report. The report indicates an exposure time but provides no explanation or support for this conclusion, thus it is not reasonable, as described in USPAP. [SR 2-2(b) (v), line 767]
- The appraisal report failed to summarize and support the following opinions and conclusions: opinion or site value, opinion of adjustments in the sales comparison approach for site differences, and the analysis of the sales contract relating to personal property. [SR 2-2(b)(viii)]
- The appraisal report failed to summarize the opinion of highest and best use, both as-improved and as-vacant. [SR 2-2(b)(ix)]
- The appraisal report failed to state whether prior services have been performed on the subject property within the previous 3 years in the report certification. [SR 2-3, line 877]
- The appraisal report has sufficient cumulative violations to support lack of due diligence resulting in appraisal services having been performed in a careless and negligent manner resulting in conclusions that are not credible. [SR 1-1(c)]
- The appraisal report failed to summarize information sufficient to identify the physical characteristics of the subject property. [SR 2-2(b)(iii)]

- The appraisal report failed to identify the characteristics of the property that are relevant such as the lake amenity. [SR 1-2(c)(i)]
- The appraisal report failed to identify any known easements, restrictions, etc. regarding lake access. [SR 1-2(c)(iv)]
- The workfile submitted to the review appraiser did not contain any data to support the site value opinion or site adjustments made in the sales comparison approach or a true copy of the original appraisal report submitted to the client. [Record Keeping Rule, line 299]

### **2012015211**

This complaint was filed by a consumer/homeowner and alleged that the Respondent communicated an appraisal with numerous errors which caused the property to be under-valued. Complainant alleged that the square footage of the property was reported incorrectly, and the Respondent used comparable sales that were not consistent with the subject property area.

Respondent sent a response stating that this complaint is without merit. The appraisal in question was completed for a mortgage finance transaction and not for personal use or tax purposes. On the issue of incorrect square footage, Respondent states that in Complainant's complaint to the lender the square footage was taken from the MLS 2001 when it was listed. The tax records and the MLS do not agree about the square footage. The Assessor of Property rounds the measurements on the improvements and does not use inches. This can make a house larger or smaller than the true size. Respondent also states that there are no comparable sales in Complainant's subdivision, and that the comparable sales Complainant provided do not meet the criteria for Respondent's search. Respondent states that his comparable sales are all within ninety (90) days and all within Two Hundred Fifty (250) square feet of the subject.

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

- The appraisal report failed to summarize and support the following opinions and conclusions: opinion of site value, opinion of adjustments in the sales comparison approach for site differences and garage, and the absence of adjustments for sales concessions. [SR 2-2(b)(viii)]
- The appraisal report failed to summarize the opinion of highest and best use, both as-improved and as-vacant. [SR 2-2(b)(ix)]
- The appraisal report failed to state whether prior services have been performed on the subject property within the previous 3 years in the report certification. [SR 2-3 (line 877)]
- The appraisal report has sufficient cumulative violations to support lack of due diligence resulting in appraisal services having been performed in a careless and negligent manner resulting in conclusions that are not credible. [SR 1-1(c)]
- The workfile submitted to the review appraiser did not contain any data to support the adjustments for site and garage made in the sales comparison approach. [Record Keeping Rule (line 299)]

- The report certification did not contain a statement regarding any previous services performed by the appraiser, with regard to the subject property, in the previous 36 months. [SR 2-3]
- The appraiser did not disclose all seller concessions involved in the sale of the comparable sales. [Competency Rule (line 330)]
- The appraiser committed substantial errors of omission that significantly affected the appraisal. [SR 1-1(b)]

<b>Licensing History:</b>	Registered Trainee	1/31/1995 - 9/16/1996
	Registered Trainee	5/8/2000 – 9/27/2004
	Licensed RE Appraiser	9/27/2004 – 12/17/2007
	Certified Residential	12/17/2007 - Present

**Disciplinary History:** 2012015211-Pending, 2012018651 - Pending

**Reasoning and Recommendation:** The reviewer found that the appraisal report contained multiple violations of USPAP as stated above, along with misspelled words, poor grammar, and poor sentence structure. Carelessness is so prevalent, that the overall credibility of the appraisal is questionable. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies course and a fifteen (15) hour Advanced Residential Applications and Case Studies to be completed within 180 days of execution of the consent order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Walton. The motion carried unopposed.

## **6. 2011030681 RE-PRESENTATION**

**\*\*\*\*This matter is being re-presented from the December 2012 commission meeting.**

This complaint was filed by a concerned citizen and alleged that Respondent failed to verify comparable sale data, made adjustments inappropriately or negligently, and failed to define the scope of work conducted in the appraisal report. Complainant alleged the errors in the report affected the value opinion in the appraisal for eminent domain purposes of a land acquisition of twelve (12) planned vacant lots.

The Respondent defended his comparable data selections and adjustments applied. He indicated that the value opinion was well supported and no violation of USPAP occurred.

The Commission determined at the December 2012 board meeting that it needed more information before authorizing any form of discipline in this matter. The Commission requested information regarding whether the subject property was a recorded plat, as well as whom the condemning agency was in the matter. After re-review of the file, it was determined that the subject property consisted of an over thirty-one (31) acre lot that was divided into twelve (12) planned lots as an unrecorded platted subdivision. The Tennessee Department of Transportation is the condemning agency in this case.

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

- The reporting option was not clearly presented in the report. [SR 2-2; SR 2-2 Comments: lines 641-648].
- The report does not utilize the proper definition of market value for the type of assignment. [SCOPE OF WORK RULE-Problem Identification; SR 2-2(b)(v)].
- The report does not provide adequate identifying information on the subject lots. [SR 1-2(c); SR 2-2(b)(iii)].
- The sales comparison approach is unsupported and not adequately completed. [SR 1-1(a)(b); 2-2(b)(viii)].
- The reconciliation is not appropriately completed. [SR 1-6(a); SR 2-1(b); SR 2-2(b)(viii)].

**Licensing History:** Certified General 1/31/1995-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that, overall, it does not appear that the appraisal report has been conveyed in an appropriate manner. In addition, the reviewer found that the report does not contain sufficient information to enable the intended users to understand and rely on the conclusions presented. The Respondent has been a certified general appraiser for over seventeen (17) years with no prior disciplinary history. Thus, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a thirty (30) hour course on General Appraiser Report Writing and Case Studies to be completed within 180 days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Phipps made the motion to accept the recommendation and it was seconded by Ms. Point. Discussion was held on the matter regarding the intended use and purpose of the assignment. Mr. Johnstone made a recommendation to defer the matter until later in the meeting to give counsel the answer for the Commission the type of client for the appraisal report. Mr. Green seconded the motion to defer. Later in the meeting counsel informed the Commission members the type of client for the appraisal

assignment was identified as the attorney for the homeowner, not the State. No names of the parties in this matter were disclosed during discussion. Mr. Johnstone recommended instead of the noted report writing course that the Respondent be required to take a 30 hour course Valuation of Partial Acquisitions. Ms. Johnson seconded the motion. The motion carried unopposed.

## 7. 2012007121

This complaint was filed by a consumer/homeowner who was in the process of refinancing his home and alleged that Respondent under-valued a residential property.

The Respondent states that the opinion stated in his appraisal report is fair and accurate and that he collected all the available information on the subject property through the normal and typical appraisal channels. Respondent states that the opinion of value is not determined by a preset percentage of decrease or increase, rather the opinion is developed by research parameters and the market activity, data, and information available by typical appraiser's research for the market in the local appraisal practice. Respondent states he has completed the assignment under the requirements of USPAP and Tennessee law.

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

- Adequate reasoning or support for adjustments in the sales comparison approach was not provided in the appraisal report. [SR 1-1(b), SR 2-2(b)(viii)]

**Licensing History:** Certified Residential 1/17/1992-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the report contains sufficient information to enable the client and intended users to understand it for the most part. However, the report does not provide adequate reasoning or support for the adjustments made in the sales comparison approach. The only comments found in the report were, "*All adjustments made for comparable dissimilarities are market derived according to FNMA guidelines. Comparable adjustments are made as warranted when research deems verifiable.*" "*Adjustments were derived from the estimated market reaction to the differences of the subject as compared to the available comparables.*" According to the report, the comparable sales were older than the subject, and the comparable sales were located on a golf course, while the subject property was not. While it is recognized that these adjustments may be appropriate there are no comments or information found in the report or workfile that provides any analysis, opinions, or conclusions for the adjustments utilized. However, the reviewer did note that overall, the appraiser does appear to understand methods and techniques in completing the approach to value. Respondent has been licensed as a Certified Residential appraiser for almost twenty-three (23) years with no past disciplinary action against him. As such, Counsel recommends **Closure of this matter with a Letter of**

**Warning** regarding the lack of analysis or support for the adjustments to value made in this appraisal report.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Dr. Baryla. The motion carried unopposed.

**8. 2012013631**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property.

The Respondent sent a lengthy response stating that the appraisal was completed with the three closest and best available comparable sales found in the local MLS data system, inside the rural community. The search revealed only three comparable sales. Due to the limited comparable sales, the search was expanded to include the entire county. In reconciliation, the three original comparable sales were determined the best available inside the county for the appraisal assignment. The final opinion of market value was determined by the adjusted sales price from all three comparable sales. Respondent states that she did the best job possible with what comparable sales were available to work with in the subject area.

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

- The appraisal report contained no lot sales, site development, or reconciliation as support for the site value. [SR 1-4(b)(i), SR 2-1(a) & (b), SR 2-2(b)(viii) Comment, RECORD KEEPING RULE]
- The workfile referenced material dated after the date of the appraisal report, indicative of copies and data being added to the workfile. [RECORD KEEPING RULE]
- The appraisal report did not contain disclosure of prior service. [ETHICS RULE, SR 2-3]
- Respondent's license number was not listed on the reports per the T.C.A. requirement.

<b>Licensing History</b>	Registered Trainee	5/8/2006-1/20/2009
	Certified Residential	1/21/2009-Present

**Disciplinary History**                      None

**Reasoning and Recommendation:** Despite several listed violations, the reviewer found that appraisal report submitted by Respondent to be complete and credible, as a whole. Respondent has been licensed as a certified residential appraiser for almost four (4) years with no prior disciplinary action against her. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the violations found by the reviewer listed above.





**Reasoning and Recommendation:** The reviewer found the report to be lacking in completeness and credibility, due to the many report errors on the part of Respondent. Respondent has been licensed as a Certified Residential appraiser for almost twelve (12) years with no prior disciplinary action against him. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies course to be completed within one hundred eighty (180) days of execution of the consent order. These terms are to be satisfied by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Phillips. After some discussion the vote was called and the motion carried unopposed.

**10. 2012012601**

## **RE-PRESENTATION**

**\*\*\*\*This matter is being re-presented from the December 2012 Commission meeting.**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by communicating a misleading appraisal report, misreported the square footage and used inappropriate comparable sales data.

The Respondent provided a lengthy response stating that the lowest level of the home is below grade and meets the definition of a basement by both local and national standards. Therefore, it is characterized as a basement and not a two and a half (2 ½) story home as suggested by the owner. The Respondent states that, according to Fannie Mae guidelines, the appraiser should report the basement or other partially below-grade areas separately and make appropriate adjustments for them. The Respondent states that he did measure the home properly, and the calculations have been checked and are correct. Respondent also states that the subject property is part of an overnight rental program, and this information was reported in the appraisal report as required. Respondent indicated that he analyzed the most current, reliable, indicative data available and adhered to all necessary and applicable standards to prepare the appraisal for the subject property.

### **REVEIWER CONCLUSIONS**

The reviewer found that the neighborhood section of the appraisal report lacked sufficient information about the market area. The neighborhood is a high traffic, tourist driven resort area, but this was not reported by the Respondent. It was also found that the improvements section contained some conflicting statements. The report has the subject's attic marked "none" and "finished" and the foundation marked "crawl space"

and “full basement”, with no explanation given. The sales comparison approach had some inconsistent information and did not discuss any reconciliation that derived the indicated value. Prior sales of the subject property were not properly or accurately disclosed on the form. There were no lot sale documents or reconciliation in the report as support for the site value. The income approach was conflicting as to whether it was developed or not for a rental, income-producing property. Indications of several errors or copying of another report caused several confusing report issues. Data referenced material dated after the date of report indicated that copies and data were added to the workfile. Such conclusions constitute multiple violations of USPAP Standards 1, 2, and the Ethics Rule: Record Keeping section.

<b>License History:</b>	Registered Trainee	7/21/1992 – 4/6/1997
	Certified Residential	4/7/1997 - Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The Commission had previously authorized a Consent Order with a Five Hundred Dollar (\$500.00) civil penalty and a thirty (30) hour Residential Sales Comparison and Income Approaches Course. After the Consent Order was sent to Respondent, Respondent requested to meet with Executive Director Avers and myself to discuss the Order. All of the relevant information was contained within the appraisal report, ( i.e. pictures of both crawl space and basement finish space area, but checking both boxes on the URAR form without explanation caused the report to be confusing). Many of the reporting errors were from “cloning data” from prior appraisal reports and not revising. The Respondent was able during the informal conference to show proper development of the approaches to value and that workfile records were appropriately maintained from the time of the original appraisal date.

After meeting with Respondent on January 4, 2012, Director Avers and I discussed the Order and the matters surrounding the Order and determined that there were inconsistencies that would warrant **Closure of the matter with a Letter of Warning**, in lieu of the previously authorized Consent Order and civil penalty. Respondent has been licensed for almost sixteen (16) years with no prior disciplinary action against him. The major issues with the appraisal report deal with reporting issues, rather than substantive issues. The Letter of Warning would address the reporting issues with regard to SR 2-1(b), which states that: “Each written or oral real property appraisal report must: contain sufficient information to enable the users of the appraisal to understand the real property”.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Mr. Johnstone. The motion carried unopposed.

#### **11. 2012007741**

This complaint was filed by a consumer/potential homeowner and alleged that the value opinion was not supported. Complainant alleged that he obtained a couple of second

opinions on the appraisal, and that the appraisal was deemed as out of the “norm” and “atypical”.

The Respondent sent a very lengthy response to the complaint stating that due to the subject property’s GLA size, it was clearly noted and explained in the addendum of the original report of the reason for the expanded market. Respondent stated that in valuing river/lake properties, it has always been required to expand the market with atypical gross and net adjustments. Respondent stated that all adjustments are based on buyer/owner preference items, contributory value, influence from over improvements, and functional utility, etc. Add adjustments are reasonable, according to Respondent. Respondent stated that his report is reasonable and well-written for the intended use (based on the fact the owner-client purchased the site vacant and built a house) to support an estimated market value. The report is clearly marked restricted use. The report states that the owner should obtain additional opinions of value from trust realtors prior to any offer to sale or purchase. Respondent states that Complainant is simply attempting to purchase various properties under market value with support from his appraiser.

### **REVEIWER CONCLUSIONS**

- The improvements section is lacking in details on the updates and modernization of the property.
- The sales comparison approach contains large adjustments without any explanation. The reconciliation was not consistent with the chosen indicated value.
- In the cost approach’s land value, there was no discussion or reference to the workfile land sales in the report or reconciliation that derived the indicated value. There was nothing about site value except a list of sales that is difficult to read or follow to understand the method used to arrive at the indicated site value.
- The appraisal report contained no disclosure of scope of work performed or not performed. The appraisal does not adequately summarize the scope of work performed.
- The appraisal report indicates the report is both a summary and a restricted use appraisal report in different places in the appraisal report.

<b>Licensing History:</b>	Certified Residential	10/31/1991 – 10/21/2007
	Certified General	10/22/2007 - Present

**Disciplinary History:** 200901748 - Dismissed

**Reasoning and Recommendation:** The reviewer found that the appraisal report was lacking in completeness and adequacy, due to the above cited issues. Respondent has been licensed for about twenty-one (21) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be Closed with a Letter or Warning regarding the cited issues stated above.

**Vote:** Mr. Walton made the motion to accept the recommendation and it was seconded by Mr. Covington. Discussion was held regarding the matter. Mr. Johnstone recommended an amendment to the motion to be a Letter of Caution instead of a Letter of Warning. Mr. Phillips seconded the amendment. After further discussion the motion was withdrawn. A new recommendation was made by Ms. Point to **Dismiss** this complaint. Mr. Johnstone seconded the motion. Vote was called and Mr. Green, Mr. Covington, and Mr. Walton voted against the matter. All others voted in support of the motion. The motion passed.

## **12. 2012003441**

This complaint was filed by an Appraisal Management Company and alleged that Respondent communicated a misleading appraisal by failing to analyze busy street influence, using inappropriate comparable sales, and failing to analyze and verify data.

The Respondent sent a response stating that the subject property location is not a negative factor on the subject's value and does not adversely impact the marketability of the subject property. This street is recognized as a premium location of residential properties and is considered to have a prestige and desirability that other streets in the same market area do not have. Respondent stated that MLS data was used and that all sales included in the report were arms-length transactions. Respondent states that all sales were accurate. The increases in values were normal increases in the value of the area properties at that time because mortgage funds and lending was readily available and market prices increased from the substantial amount of activity within the real estate markets. Respondent stated the appraisal report was appropriately developed, adequately documented, and well-supported in its determination of value, and no unacceptable appraisal practices were engaged in during its development.

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

- The appraisal report makes no mention that the subject property is on a busy street.
- The appraiser used sales in a superior location in an area where older, smaller homes are being demolished to build much larger homes. [SR 1-4(a)]
- The appraiser used sales on a much larger lot and made a very small adjustment to the subject for the size difference. [SR 1-4(a)]
- The appraiser did not provide any comparable lot sales that support the site value used. [SR 1-4(b)]
- The appraiser made a misstatement in the reconciliation by stating that the cost approach supports the sales comparison approach. This is not true. [SR 1-6(a)(b)]

**Licensing History:** Certified General 8/11/2011 - Present

**Disciplinary History:** (20051950 – Closed, 200902234 – Closed and Flagged, 201102237 – Consent Order authorized with \$500 civil penalty and 20 hours of CE classes/Closed)

**Reasoning and Recommendation:** The reviewer found several violations of USPAP in the appraisal report. The reviewer indicated the value opinion was not credible. Since Respondent has only been licensed for a little over one (1) year and has been disciplined for violations in the past, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be satisfied within thirty (30) days of execution of the Consent Order and a thirty (30) hour Sales Comparison Approach course to be completed within one hundred eighty (180) days of execution of the Consent Order. These terms are to be satisfied by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

### **13. 2012007811**

This complaint was filed by an outside agency and alleged that Respondent used inappropriate comparable sales data on his appraisal of a home.

The Respondent stated in his response that he was requested to do an exterior appraisal on this property, and that with the changing market, his search was focused on sales within the last six months of time and finding similar sized homes within the subject subdivision, the neighborhood, and/or within a competing subdivision. There had been activity within the subject subdivision; however, in Respondent's opinion the sales with sale dates over six months are not reflective of a more current market. Respondent stated that at the request of the lender, corrections were made on several items. In addition, sales within the subject subdivision dating back to April 2011 were considered and three were added to this report, with a reduction in the opinioned market value. However, Respondent stated that he did not change the date of this appraisal, as this was a new assignment under USPAP regulations.

This file contains two separate appraisal reports. It contains an original appraisal report, along with a revised version.

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

- The neighborhood market trends and factors are not appropriately supported. The market trends information presented on the first page of the report is inconsistent with the Market Conditions Addendum. [SR 1-2(e)(i), SR 2-2(b)(iii)]
- The sales comparison approach in both the original and revised reports does not provide adequate reasoning or support for opinions and conclusions presented.

The report lacks proper discussion on the adjustments, subject's relationship with area sales, and the lack of support indicating the sales used are from similar and/or competing market areas.[SR 1-1(b)(c), SR 1-4(a), SR 2-2(b)(viii)]

- The site value is not supported in either report, due to the lack of analysis of area sales and sales presented. [SR 1-1(a)(b)(c), SR 1-4(b)(i)(ii), SR 2-2(b)(viii)]
- The cost approach is not properly supported by the information in the workfile or presented in the report and could not be recreated by the reviewer. [SR 1-1(a)(b)(c), SR 1-4(b)(i)(ii), SR 2-2(b)(viii)]
- Previous experience was not discussed and/or reported. The revised report makes no mention that it is a revision of a previous assignment, nor is there any mention of the previous report. [Ethics Rule: Conduct (lines 234-244)]

**Licensing History:** Certified Residential 1/12/1994 - Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the inconsistencies throughout the report diminish its reliability. The information provided and the opinions reported in this appraisal report do not provide adequate support for the conclusions rendered. Based on the information in the appraisal reports, neither the original nor the revised report contains sufficient information to enable the client and intended users who receive or rely on the report to understand it. As such, Counsel recommends a Consent Order authorizing a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies course to be completed within 180 days of execution of the consent order. These terms are to be satisfied by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

#### **14. 2012017211**

This complaint was filed by a fellow practitioner/appraiser and alleged that Respondent reported a sale that did not exist in the sales comparison approach of an appraisal of a residential property.

The Respondent/appraiser stated in his response letter that the comparable sale in question was a For Sale By Owner and was a confirmed sale through court house records. Respondent's statement included an MLS number in the sales grid that was a mistake, but Respondent claims it was not fraud.

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

- The appraisal report contains no opinion of exposure time. [SR 2-2(b)(v)(line 767)]
- The appraisal report fails to summarize and support the following opinions and conclusions: opinion of site value, opinion of adjustments in the sales comparison approach for effective age, analysis of the sales contract relating to contract contingencies. [SR 2-2(b)(viii)]
- The appraisal report fails to summarize the opinion of highest and best use, both as-improved and as-vacant. [SR 2-2(b)(ix)]
- The appraisal report fails to state whether prior services have been performed on the subject property within the previous three years in the report certification. [SR 2-3 (line 877)]
- The appraisal report has sufficient cumulative violations to support lack of due diligence resulting in appraisal services having been performed in a careless and negligent manner. [SR 1-1(c)]
- The appraisal report has sufficient violations so as to result in insufficient information for intended users to understand resulting in conclusions that are potentially misleading. [SR 2-1(a, b)]
- The workfile submitted did not contain any data to support the site value opinion. [Record Keeping Rule (line 299)]

<b>Licensing History:</b>	Registered Trainee	6/22/2005 – 8/16/2007
	Certified Residential	8/16/2007 – Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found several violations of USPAP that would warrant disciplinary action against Respondent. Specifically, the reviewer found that there was no record or verification of a sale of one certain property as stated in the appraisal report. However, there is a property located at a slightly different address that sold as identified in the appraisal report. This discrepancy is the sole basis for this complaint being filed by Complainant. According to the reviewer, the Complainant, a review appraiser, has not performed due diligence to discover this minor oversight on behalf of the original appraiser and chose to call this fraud. The appraiser is guilty of violating SR 1-1 (c) in rendering appraisal services in a careless manner, but is not guilty of fraud, in the opinion of the reviewer. Additionally, review of the appraisal workfile did not discover any land sales or other documentation to support the site value opinion. This is a violation of the Record Keeping rule. The Respondent has been licensed for a little over five (5) years with no prior disciplinary action against him. As such, Counsel recommends a Consent Order authorizing a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies course to be completed within 180 days of execution of the consent order. These terms are to be satisfied by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to **Close with a Letter of Warning** and it was seconded by Mr. Johnstone. The motion carried unopposed.

**15. 2012025211            There was no reviewer in this matter.**

This complaint was filed by an appraiser and alleged that the Respondent did not pay appraisal fees and was guilty of removing an appraiser from its appraiser panel or otherwise refusing to assign requests to an appraiser. In addition, according to the office records of the Tennessee Real Estate Appraiser Commission, Respondent is not registered as an Appraisal Management Company in Tennessee, nor was it registered as an AMC at the time of the activity that is the subject of this complaint. This complaint file includes copies of several invoices from Complainant showing unpaid appraisal fees for services rendered, with the most recently dated invoice showing June 25, 2012.

To date, this office has not received a response to the complaint from Respondent.

**Licensing History:** Not registered/licensed

**Disciplinary History:**        None.

**Reasoning and Recommendation:** The Complainant did not provide proof of the Respondent removing an appraiser from its panel nor refusing to assign requests to an appraiser. Thus, there is insufficient evidence to prove that allegation. However, Complainant did provide proof of unpaid invoices for services rendered between April 2012 and June 2012, at a time when Respondent was not registered/licensed as an AMC. This failure to pay for services rendered constitutes a violation of Tennessee Real Estate Appraiser laws, as well as constitutes unlicensed activity on the part of Respondent for acting as an AMC without registration to do so. As such, Counsel recommends the authorization of a Consent Order authorizing a civil penalty in the amount of Eight Thousand Dollars (\$8,000) to be settled by Consent Order or Formal Hearing. This civil penalty amount constitutes seven (7) separate counts of failure to pay appraisal fees in a timely fashion, as the file contains seven separate invoices that are unpaid. In addition, this civil penalty constitutes a One Thousand Dollar (\$1,000) penalty for unlicensed activity on the part of Respondent.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Walton. The motion carried unopposed.

**16. 2012020291            There was no reviewer in this matter.**

This complaint was filed by an Appraisal Management Company and alleged that Respondent submitted a fraudulent copy of his Real Estate Appraiser license. According to the complaint, Respondent submitted the copy of his license on April 2012, while his license was expired. According to the office records of the Tennessee Real Estate Appraiser Commission. Respondent's license had expired on February 12,



2012. Respondent did not renew his license until August 15, 2012. Thus, Respondent submitted a copy of his license, during a time when his license was, in fact, expired.

The Respondent stated in his response that the facts presented by the Complainant were true. Respondent stated that due to several different hardships in his life, he has not been working much and allowed his license to expire. Respondent admits that out of desperation, he presented an invalid license to the Complainant in the hopes of generating enough income to complete his renewal requirements. Respondent states that he regrets this action and that he has been an appraiser in Tennessee for over twenty-three (23) years and has never received any complaints or disciplinary actions filed against him.

<b>Licensing History:</b> Certified Residential	2/12/1992 – 2/12/2010
Expired from	2/12/2010 – 4/12/2010
Certified Residential	4/12/2010 – 2/12/2012
Expired from	2/12/2012 – 8/14/2012
CR current through	8/15/2012 – 2/12/2014

**Disciplinary History:** None.

**Reasoning and Recommendation:** Respondent admitted to knowingly submitting a fraudulent copy of his Tennessee Real Estate Appraiser license to an Appraisal Management Company during a time when his license was expired. This constitutes a violation of the Ethics Rule, as well as the laws of the Tennessee Real Estate Appraiser Commission. However, Respondent did, in fact, renew his license some time after this submission. Respondent has been licensed for over twenty (20) years, so he should fully understand the laws and rules of his profession. As such, Counsel recommends a Consent Order authorizing a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days from the execution of this Order and the suspension of Respondent's real estate appraiser license for a period of forty-five (45) days. If Respondent does not pay the civil penalty in full, his license will be indefinitely suspended until such time as payment of the civil penalty is made in full. The terms of this Consent Order are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Phillips made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

#### **17. 2012013521**

This complaint was filed by an Appraisal Management Company and alleged that the Respondent misreported the gross living area and used inappropriate comparable sales which affected the value opinion of the subject property. It should be noted that this complaint was filed in 2012 on an appraisal that was done in 2008.

The Respondent stated in his response letter that the neighborhood and comparable sales were appropriately described, but that he made an error by including square

footage from the barn in the gross living area, which affected the comparable sales and listings selected, and ultimately affected the value indication. Respondent stated that this was an isolated instance and that he has had no other complaints in twenty (20) years.

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

- The appraiser included the barn in the heated living area of the house and, in turn, inflated the value by including the barn in the square footage. [SR 1-1]
- The appraiser neglected to analyze and verify the data by including the barn in the square footage. [SR 1-4]

**Licensing History:** Certified Residential

3/8/1994 – Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** While the Respondent did admit and the reviewer did find that Respondent did inflate the value by including the barn in the square footage, it is the opinion of the reviewer that the original appraiser did not intentionally mislead the user of the report. Rather, it was an unfortunate mistake in the report that lead to an inflated value. In addition, the reviewer found that there are few sales of similar homes in this area, and the sales used represent the best available. The Respondent has been licensed for about nineteen (19) years and has had no disciplinary action against him. Respondent admits that this error was a mistake on his part. In addition, this complaint was filed almost four (4) years after the appraisal was completed by Respondent. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the issues surrounding the inclusion of the square footage of the barn with regard to the inflation of the value indicator.

**Vote:** Dr. Baryla made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

**18. 2012011851**

This complaint was filed by an Appraisal Management Company and alleged that Respondent communicated a misleading appraisal report of a residential property which had commercial zoning without disclosure or adequate analysis of highest and best use. Complainant alleged that Respondent used inappropriate sales data and over-valued the subject property.

The Respondent stated in his response that his participation in the completion of this report was as a trainee, under the supervision of another appraiser. Respondent stated that zoning information for the subject property was acquired by contacting the county zoning and planning department, as no online zoning maps for that county were available at the time of inspection. Respondent claims that he was told by the county that the zoning was residential, the use of the property at the time of inspection was

residential, and the county land use in the tax records was residential. As such, its highest and best use on the effective date of the report was its legal use as a single family residential home. Respondent states that the comparable sales used in the report were appropriate and that the report stated that due to a lack of more recent, more suitable sales, the Respondent was forced to expand his search beyond six months and one mile.

The former supervisor and signing appraiser on the appraisal report let his credential lapse in 2012 and is beyond the period where he may renew the credential.

The Respondent is identified on the certification page of the URAR form as "State Certification # xxxx". He did not clearly identify on the appraisal report that he was a trainee at the time of the appraisal. He signed the transmittal letter to the client electronically, and no supervisor is indicated on the letter of transmittal. On the market rental data page, the Respondent is identified only as "appraiser" with his signature.

**62-39-324. Use of certain titles restricted to individual holders of license or certificate -- Issuance of license or certificate to certain entities prohibited.**

(a) "State certified real estate appraiser," "state certified residential real estate appraiser," "state certified general real estate appraiser" or "state licensed real estate appraiser" may only be used to refer to individuals who hold the license or certificate and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation or group or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group or anyone other than an individual holder of the license or certificate.

**62-39-304. Real estate appraiser trainee -- Rules.**

(a) As a prerequisite to making application for licensure as a state-licensed real estate appraiser, a state-certified residential real estate appraiser or a state-certified general appraiser, an applicant must register as a real estate appraiser trainee, in addition to all other lawful requirements, then demonstrate two (2) years of service under a state-certified residential real estate appraiser or a state-certified general real estate appraiser as a real estate appraiser trainee or equivalent experience as determined by the commission and in compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.

**Rule 1255-01-.12**

(4) (h) A registered trainee shall comply with the Uniform Standards of Professional Appraisal Practice.

(9) No registered trainee may represent him or herself as a licensed or certified appraiser or use the appellation "State Licensed Real Estate Appraiser," "State Certified Residential Real Estate Appraiser," "State Certified General Real Estate Appraiser," or any form thereof, or do any other act which gives or is designed to give the impression that the registered trainee is a licensed or certified real estate appraiser.

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

- The appraisal report noted an incorrect zoning classification for the subject property. The report classifies the property as residential, when the correct zoning was C-2 commercial. [SR 1-1(b) & (c), SR 2-2(b)(iii)]
- The appraisal report contains no explanation as to the residential use of the property in a commercially zoned area. [SR 2-2(b)(ix)]
- The appraisal report fails to analyze the previous sale of the subject property. [SR 1-5(b)]
- The appraisal report fails to analyze the adjustments made for age on any of the comparable sales listed. [SR 1-1(c)]

**Licensing History:** Registered Trainee 6/22/2007 – 6/13/2011  
Certified Residential 6/14/2011 – Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found that the appraisal report contained several violations of USPAP, which would warrant disciplinary action against Respondent. The Respondent was inappropriately identified in the appraisal report as the “appraiser” and does not make clear to the client or intended users of the report that, at that time, he was a registered trainee in violation of Rules 1255-01-.12(4)(h) and (9). The Respondent also violated USPAP in the above noted analysis of the zoning, as the report contained an inadequate summary of information. The workfile documents indicate a hand-written note on the public record card that the zoning is residential, but there is no date or source for this information, and there is no summary of this in the report. The supervisor is no longer an appraiser and has no right to renew, so it does not seem necessary to open a complaint against the supervisor. Since the Respondent was a trainee at the time, Counsel recommends that this matter be **Closed with a Letter of Warning**, identifying the above violations and indicating that future violations may result in discipline.

**Vote:** Mr. Covington made the motion to accept the recommendation and it was seconded by Mr. Phillips. Mr. Walton opposed the motion; all other members voted in support of the motion. The motion passed.

**19. 2012015191**

This complaint was filed by a consumer/ homeowner and alleged that Respondent communicated an appraisal with numerous errors, which caused the subject property to be under-valued. Complainant alleged that the many errors and inaccurate data in the appraisal report give a poor perception of the subject property, relative to the other property in the neighborhood. As a result, Complainant was unable to refinance all debt on this property and has suffered financial loss.

In his response, Respondent disputes all of Complainant's complaints, stating that certain errors were made, but were corrected in his revised report to the lender. Some of these errors Respondent attributes to software glitches. Respondent states that his amended report to the lender addresses the Complainant/borrower's concerns. The changes from the original report to the amended report are: corrected plat map, one level vs. two; hardieboard vs. wood siding; and price per square foot in the sales comparison approach. Respondent states that none of these changes affected the credibility of results. Respondent states that he is confident that his appraisal report shows both compliance with USPAP guidelines and Tennessee laws and rules. Respondent also states that review of the sales comparison analysis will show that the value estimate is accurate and defensible.

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

- The information contained in the neighborhood boundaries section is inaccurate. [SR 1-2(e)(i), SR 2-2(b)(iii)]
- The first appraisal report contains inaccurate statements in the improvements section. There were several errors in the number of stories, foundation, and exterior walls form blocks and check blocks. The first report had under "Foundation" the concrete slab block checked while the second report had both the concrete slab and crawl space block checked. [SR 2-1(a) & (b), SR 2-2(b)(iii) & (viii)]
- The site dimensions and total site area were inaccurate. [SR 1-1(b) & (c), SR 2-1(a) & (b), SR 2-2(b)(iii) & (viii)]
- The site area in the comparable sale grid is inaccurate and missing prior sale data on sale #2. [SR 1-1(b) & (c), SR 2-1(a) & (b), SR 2-2(b)(viii)]
- The report contains no lot sales or site value development or reconciliation as support for the site value. [SR 1-4(b)(i), SR 2-1(a) & (b), SR 2-2(b)(viii)]
- The second report date has the same report date as the first report. [SR 2-1(a) & (b), SR 2-2(b)(vi)]

**Licensing History:** Certified Residential 7/31/1992 – Present

**Disciplinary History:** (945181 – Closed with Consent Order-Procedures course and experience log)

**Reasoning and Recommendation:** The reviewer found that the report is lacking in completeness and credibility, due to the multiple report errors on the part of respondent. Respondent has been licensed for over twenty (20) years with only one previous disciplinary action against him. As such Counsel recommends a Consent Order authorizing a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of the execution of this Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies course to be satisfied within one hundred eighty (180) days of the execution of this Consent Order. These terms are to be satisfied by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the

Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

**Vote:** Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Johnstone. The motion carried unopposed.

## **20. 2012025441**

This complaint was filed by the administrative staff of the Tennessee Real Estate appraiser Commission for failure to submit biannual certification as required by the laws and rules of TREAC.

On November 26, 2012, Respondent submitted the appropriate biannual certification as requested by this office.

**License History:** Registered Appraisal Management Co. 1/10/2012 - Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** Respondent submitted the appropriate biannual certification forms to this office as requested; thus, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Phipps made the motion to accept the recommendation and it was seconded by Ms. Johnson. The motion carried unopposed.

### **Formal Hearing**

The formal hearing schedule for this month was granted a continuance to be held at the March Commission meeting.

## **NEW BUSINESS**

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### **Director's Report**

Ms. Avers gave a director's report to the Commission, which included staffing updates, discussion of the needed legislative changes, and 2013 meeting calendar for the Real Estate Appraiser Commission. Mr. Green made a motion to cancel the previously scheduled February Commission meeting. Mr. Phillips seconded the motion. The motion passed. Ms. Avers discussed the meeting with the Department of Financial Institutions representative and the NMLS system used for application processing including fingerprinting and background checks of mortgage licensees. Ms. Avers notified the Commission members that the Chancery Court had rendered a decision in Carol A. Smith (Easley) appeal and the decision of the Real Estate Appraiser Commission was upheld. A copy of the Chancery Court decision was provided to the members of the Commission. Ms. Avers updated the members on the budget information and an overview of number of complaints received in the previous calendar

year. Finally, she updated the members on the numbers of licensees, courses and active temporary practice permits.

**ASC Compliance Review – Policy Manager Introduction and Discussion**

Three members of the ASC staff were present to perform the compliance review for Tennessee. Policy Manager, Kristi Klamet, gave a summary to the Commission of the compliance review process, past reviews, changes required by the Dodd-Frank law which must be implemented by July 1, 2013, and the AQB requirements to be implemented by January 1, 2015. They indicated that they would submit a letter to Ms. Avers indicating any findings of the compliance audit and Ms. Avers indicated she would communicate these results to the Commission members. The policy managers indicated they would be on site for three days to conduct their compliance review.

**Appraisal Subcommittee Staff:**

Kristi Klamet, Policy Manager  
Denise Graves, Deputy Executive Director  
Claire Brooks, Regulatory Affairs Specialist

**From ASC website:**

*The ASC monitors each State’s appraiser licensing and certification regulatory program to ensure the State:*

- (1) Recognizes and enforces the standards, requirements and procedures pre-scribed by Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, (Title XI);*
- (2) Has adequate authority to permit it to carry out its Title XI-related functions; and*
- (3) Makes decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices consistent with Title XI. The ASC, in general, satisfies these responsibilities by performing on-site Compliance Reviews of State agency programs and maintaining close communications with appraisers, State and Federal agencies, and users of appraisal services.*

Mr. Phillips reminded his fellow Commission about the ASB Exposure Draft and asking for any comments or concerns to be sent to him to draft any proposed Commission letter to the ASB.

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Being no further business, the meeting was adjourned at 1:25 p.m.