



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

**June 10th, 2013 - Minutes**  
**First Floor Conference Room (1-B), Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met June 10th, 2013 at 10:30 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairperson, Norman Hall, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Norman Hall  
Michael Green  
Dr. Edward A. Baryla  
Mark Johnstone  
Rosemarie Johnson  
Nancy Point  
Herbert Phillips

**COMMISSION MEMBERS ABSENT**

Jason Covington (resigned 2/26/13)  
Timothy Walton

**STAFF MEMBERS PRESENT**

Nikole Avers, Jesse Joseph, Keeling Baird, Dennis O'Brien

**ADOPT AGENDA**

Mr. Phillips made the motion to accept the agenda. It was seconded by Dr. Baryla. The motion carried unopposed.

Chairman Hall read the public meeting statement into the record which indicated the agenda was posted to the TREAC website on May 22nd, 2013.

**MINUTES**

The April 8th, 2013 minutes were reviewed. Ms. Point made the motion to accept the minutes as written. It was seconded by Ms. Johnson. The motion carried unopposed.

## Commission Member Training – Judge Collier, Laura Betty

Judge Collier gave an overview of the roles of the Judge, the Board members and the attorneys at Commission meetings and during formal hearings. Ms. Betty then made a presentation covering the requirements of the ‘Sunshine Law’ for Open/Public Meetings. Judge Collier ended by discussing Ex-Parte communications, what it means and how that relates to open meetings requirements as well as formal hearings.

## APRIL 2013 EDUCATION COMMITTEE REPORT

Dr. Baryla reviewed the education and made the motion to accept the recommendations as below.

Course Provider	Course Number	Course Name	Instructors	Hours Requested	Type	Rec.
Appraisal Institute	1648	Income Approach for Residential Appraisers	Rich DuBay	7	CE	For
ASFMRA	1649	Income Approach Applications	LeeAnn Moss	8	CE	For
Appraisal Institute - Greater TN chapter	1650	Residential Green Description Made Easy	Jim Atwood	4	CE	For
ASA-Knoxville	1651	The Appraisal Spreadsheet: Find the Adjustment	Gary S. Snowdon	7	CE	For
ASFMRA	1652	Rural Case Studies 1	LeeAnn Moss	8	CE	For
ASFMRA	1653	Regression Analysis Uses in Appraisal	Stephen Stephens	8	CE	For
ASFMRA	1654	Minerals Appraisal Seminar	John Widdoss	8	CE	For
ACEI dba Calypso	1660	A Brief Stroll Through America's Architecture for Appraisers	Francis X. Finigan	7	CE	For
IRWA	1661	Problems in the Valuation of Partial Acquisition (C 431)	David Layne	7	CE	For
IRWA	1662	7 Hour USPAP Update (C 406B)	David Layne	7	CE	For
IRWA	1663	Conflict Management (C 213)	Richard Schreiber	7	CE	For
IRWA	1664	Legal Aspects of Easements (C 802)	Richard Schreiber	7	CE	For
IRWA	1665	Introduction to the Income Capitalization Approach (C 402)	Stew Tyler	7	CE	For
IRWA	1666	The Uniform Act Executive Summary (C 105)	Allen Armstrong	7	CE	For
NMU	1667	Avoiding UAD Callbacks and "Stips" Module I	Dawn Molitor Gennrich Richard Heyn	2	CE	For
NMU	1668	Avoiding UAD Callbacks and "Stips" Module II	Dawn Molitor Gennrich Richard Heyn	2	CE	For
The Spearman Center	1669	Making Valid Appraisal Adjustments	William Lewis Spearman	7	CE	For
The Spearman Center	1670	The Re-Appraisal Trap	William Lewis Spearman	7	CE	For

**Individual Course Approval Requests**

Licensee	Course Provider	Course Name	Hours	Type	Rec.
Debra L. Headden	GNAR	Code of Ethics / Risk Management *Some content is not appropriate and we need a timed outline for reconsideration	6	CE	*Against, may be reconsidered
Michael E. Green	AARO	AARO's 2013 Spring Conference *12 hours (600 minutes at 50 per)	*12	CE	*For 12
Douglas P. Russell	IAAO	Income Approach to Valuation	33	CE	For
Quinton C. Robinson	University of Memphis	Real Estate Appraisal Principles	30	QE	For

**Instructor Approval Requests**

Instructor	Course Provider	Course#	Course Name	Hours	Type	Rec.
Robert McClelland	McKissock	4908 4912	1. Land and Site Valuation & 2. Disciplinary Cases – What Not to Do	5 7	On-Line On-Line	For
John Smithmyer	McKissock	1466	Residential Appraisal Review	7	On-Line	For

Dr. Baryla's motion to accept the recommendations was seconded by Ms. Johnson. The motion carried unopposed.

**Application Review – character question application**

Ms. Avers presented the case of **Mark Wayne Yeargin**, who had submitted an application to become a Certified Residential Real Estate appraiser in Tennessee on April 3, 2013. He currently held a Certified Residential Appraiser license in the state of Idaho and was in good standing as of date. The applicant had checked “yes” to the character question that asks, “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? This would include a suspension, revocation, or voluntary surrender of a license or certificate.” In his supplemental response Mr. Yeargin indicated that he had been disciplined in Idaho and placed on one year’s probation with an administrative fine and Investigative and Attorney costs. He had since completed all the requirements of the Stipulation and Consent order and on February 10, 2012, the Idaho Board of Real Estate Appraisers removed Mr. Yeargin from probation.

He also answered “Yes” to the character question that asks “Have you ever been convicted of, pled guilty, or pled no contest to any criminal offense, or is there any criminal charge now pending against you?” In his supplemental response, Mr. Yeargin indicated he was arrested for armed robbery with a non-deadly weapon in Jacksonville, Florida, but was granted a full pardon in December of 1994.

The executive director recommended approval of this application.

Commission Policy #5

*5. In cases where an applicant may be required to appear before the Commission because they have answered "yes" to question number three (3) on the character information page of their application, and the offense is five (5) years old or older, and the offense does not fall under T.C.A. 62-39-326(3) or (4), the Executive Director of the Tennessee Real Estate Appraiser Commission is authorized to approve any appraiser application in house without presentation to the Commission. The Executive Director in his/her discretion may present applications and/or applicants to the Commission for approval.*

Upon discussion, the Board considered his prior felony conviction in Florida and noted that he knowingly/admittedly violated USPAP – both of which were considered serious matters.

**Vote:** Mr. Phillips made the motion to deny the application. It was seconded by Ms. Johnson. The motion carried unopposed.

### **Report of Experience Interview(s) – Recommendations**

**Thern Newbell** made an application to upgrade from a certified residential to a certified general real estate appraiser. Mr. Green was the reviewer and made the motion to defer approval at this time until he conferred with Director Avers on which other appraisals Mr. Newbell could submit to show better understanding of the three approaches to value – and then be given an opportunity for another review at a later date. Mr. Phillips seconded the motion. The motion carried unopposed.

**Derrick A. Smith** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Phillips was the reviewer and made the motion to approve of his experience request. Ms. Point seconded the motion. The motion carried unopposed.

**Jane 'Lindsay' Shaffler Piretti** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Mr. Phillips was the reviewer and made the motion to approve of her experience request. Ms. Point seconded the motion. The motion carried unopposed.

**Samantha Evans** made an application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Johnstone was the reviewer and commented that Ms. Evans did an outstanding job on her appraisals. He then made the motion to approve of her experience request. Mr. Phillips seconded the motion. The motion carried unopposed.

**Andrew Christopher Jans** made an application to upgrade from a registered trainee to become a certified residential real estate appraiser. Chairman Hall was the reviewer and made the motion to approve of his experience request. Dr. Baryla seconded the motion. The motion carried unopposed.

**Cathy Hall** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Ms Point was the reviewer and made the motion to defer approval at this time, requested that Ms. Hall send in three additional residential reports - and

then be given an opportunity for another review at a later date. Mr. Johnstone seconded the motion. The motion carried unopposed.

## **Legal Report**

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### **1. 2012021861**

This complaint was filed by a fellow practitioner and alleged that Respondent over-valued a residential property by failing to include previous transfers and listing history. In addition, Complainant alleged that Respondent made other errors that, in the aggregate, resulted in a highly misleading and fraudulent report.

Respondent stated in his response to the complaint that his office manager checked the box stating that the property had not been sold or listed in the past year, which was incorrect. Respondent admits he failed to catch that mistake when he was reporting the sales and listing history in the appraisal report. Respondent also stated that in his appraisal report, he did report that there was a declining market based on median sales prices at different intervals. In his comment regarding market conditions, Respondent admits he mistakenly stated that the market was stable, although he did check declining in the neighborhood section. The Respondent stated that at the time this appraisal was completed, he had been licensed for one and a half years and had never seen anything like this take place in the market and could not have anticipated market pressure on sales prices. However, Respondent stated there was no intent to mislead anyone. Respondent stated he did not use wholesale deals as comparables because they were cash deals and many of them were not listed with MLS. Respondent stated that his mistake did not impact his opinion of value.

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

- **Reporting Option:** The report type was not properly identified. The appraisal report was identified by a signed addendum that indicated the appraisal report was a "Complete Appraisal (the act or process of estimating value, or an opinion of value without invoking the Departure Rule)" and reported as a "Self Contained Report (a written report prepared under Standard 2-2(a) of a complete or Limited Appraisal performed under Standard 1)". In the last section of this addendum and on page 3 of 5 of the URAR report, it indicates that it is a "Summary Appraisal Report according to Standard Rule 2-2(b) of USPAP". In this same paragraph there is further discussion that there has been no departure to Standard Rule 1. Based on the information provided in the report, it appears that the Respondent has a lack of understanding of the appraisal reporting requirements. [Competency Rule, Lines 332-333, page U-11; SR 2-2]
- **Listing/Sales History:** Previous listing and sales of subject were not reported or analyzed. The report indicates that the subject property was not currently offered for sale nor had it been for sale in the twelve months prior to the effective date. The report further notes that the data source was, "MLS Listings/FSBO Listings". According to MLS #3124838 the subject property was listed 11/16/2007 for \$84,900 and sold 3/26/2008. No analysis of the listing was noted in the report or work file information provided. In the sales comparison section, the report indicates that there have been "No prior sales in the past 36 months". A review of MLS revealed that the subject property had actually transferred three times in

the three years prior to the effective date of the appraisal assignment. No analysis of the previous sales was provided. [Competency Rule; Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-5(a)(b); SR 2-1(a)(b); SR 2-2(b)(viii)]

- Neighborhood: Market area trends and factors were not adequately analyzed. The neighborhood section of the report provides comments that this is a stable and average neighborhood. The report is marked “declining” in the one-unit housing trends section under property values. There are comments provided in the attached addendum that indicate the subject is in a declining market. These seem to be contradictory. The effects of these market area trends have not been analyzed and what affect these trends have on marketability has not been properly addressed and/or discussed. [SR 1-1(b); SR 1-2(e)(i); SR 2-1(b); SR 2-2(b)(iii)]
- Sales Comparison Approach: The gross living area of Sale #2 was not accurately reported. Sale #2, 4693 Royal View Drive, was verified through MLS. The information in the report appears to be accurate with exception of the gross living area (GLA). The report indicates that this sale has 1200 square feet. According to the information found in attachment #7, the sale has a gross living area of 1521 square feet. Available sales data has not been properly researched and analyzed. The report does not address or utilize sales that reflect current (effect date 4/7/2008) market reactions in the market area. [SR 1-1(a)(b); SR 1-4(a); SR 2-1(b); SR 2-2(b)(viii)]
- Site Value/Cost Approach: The site value is not supported. A \$20,000 site value was noted in the cost approach section of the report. The report notes, “The allocation method was used to determine land value. Sources for the information include public records provided by the tax assessor and information provided by data gathering sources”. No supporting information was found in the report nor was it found in the work file information provided. [SR 1-4(b)(i); SR 2-1(a)(b); SR 2-2(b)(viii)]
- Income Approach: The gross rent multiplier (GRM) is not supported. [SR 1-4(c)(iii); SR 2-2(b)(viii)]
- Reconciliation: The reconciliation does not adequately address the quantity and quality of data used to arrive at the conclusions presented. Based on the limited comments, all three approaches to value were considered with the sales comparison approach given the most weight and supported by the cost and income approaches to value. Overall, the reconciliation does not provide the intended user and/or reader with sufficient information or analysis to properly understand the opinions and conclusions presented. [SR 1-6(a); SR 2-2(b)(viii)]

#### Respondent’s Response to Reviewer Conclusions:

Respondent was also given the opportunity to respond to the reviewer’s conclusions after the review was completed, and the Respondent sent a response on May 17, 2013. Respondent stated that in response to the report being incorrectly identified, the statement made that it was a self-contained appraisal was part of a canned comment used by Respondent’s mentor just for clarification. Respondent no longer uses this verbiage, and stated that he stated more than once in the appraisal that it was a summary appraisal report but mistakenly check the wrong box. In the sales and listing history section, Respondent states that this was incorrectly checked on the first page of the report of the appraisal. Respondent stated he did research the sales history of the subject, but the two sales that took place on the same day (3/20/2012) had not yet been

listed in MLS or on the Assessor's website. Respondent did not catch this one. Respondent stated that the days on the market dropped below 60 days and the median sales price dropped to \$28,000. At the time this was happening, Respondent stated he could not have predicted that it would be as bad as it turned out. As for the sales comparison approach, Respondent stated MLS shows the GLA of Comparable #2 as 1,521, and the appraisal shows 1,200. Entry of the comparable sale information is done by Respondent's office manager and then checked by Respondent, and Respondent does not know how he missed this difference in size. Respondent stated that the gross rent multiplier is supported. The adjusted sales comparables were divided by the market rent, and that yielded a range of 136-152 months. He multiplied the market rent times the mid-range of the GRM's to get the value based on the income approach. He used 144, which is exactly in the middle of the high and the low. Respondent states that the reconciliation statement made by the reviewer is the opinion of the reviewer. Respondent stated that he was a new appraiser at the time this appraisal was done, and that he made some mistakes as far as checking some incorrect boxes. Respondent stated that there were some unintended consequences of one mistake leading to another, but that their review process had changed so that these kinds of mistakes do not happen again.

License History:	Registered Trainee	7/2/2003-5/11/2006
	Certified Residential	7/12/2006-Present

Disciplinary History: 201000361- Closed due to insufficient evidence

**Reasoning and Recommendation:** The reviewer found that the inconsistencies in the report diminish the reliability of the report, and that all pertinent and factual data were not properly analyzed. The appraisal report does not contain sufficient information or analysis to enable the client and/or intended users to be able to understand the opinions and conclusions provided in the report. 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 satisfied within One Hundred Eighty (180) days of the execution of this Order. These terms are to be satisfied by Consent Order or Formal Hearing.

**Vote:** Mr. Johnstone made a motion to amend counsel's recommendation to increase the penalty to one thousand dollars (\$1000) and add a comparative analysis class. Mr. Green seconded the motion. The motion carried unopposed.

## 2. 2012020541

This complaint was filed by a fellow practitioner and included allegations that the Respondent went to a superior city to get comparable sales and inaccurately reported the market conditions and values of the neighborhood.

Respondent stated in his response to the complaint that the subject property is larger than most of the surrounding neighborhood and is one of the newer homes. The appraisal report expands the radius to find both comparables that were newer and fell within the square footage range of the subject. Respondent also excluded any bank REO sales. Respondent stated that while the average sales price is higher where some

of the comparables are located, this is because the average home is larger, which is why he went there to find the comparables. The four comparables used were the best four that Respondent stated he could find and accurately represents the value of the subject property.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The neighborhood/area factors and trends that affect marketability were not adequately or reasonably considered, described, discussed, or analyzed within the appraisal report. The noted boundaries extend into the adjoining municipality of another city. However, there was no discussion or analysis offered as to those factors that affect value in the subject city versus those factors that affect value in the other city. Factors such as tax rates, schools, and other social and economic forces were not discussed. [SR 1-2(e)(i); SR 2-2(b)(iii)]
- Sales from the subject's market area have not been identified or analyzed, and no explanation was given as to why it was necessary to utilize sales from an adjoining municipality.
- Adequate reasoning has not been provided for the adjustments and sufficient analysis has not been provided to support opinions and conclusions in the sales comparison approach. No comments or analysis were offered for the difference in the area location and those forces and/or factors that affect value. No analysis or comments were provided and no supporting data was located in the workfile information to support adjustments regarding how the subject's age compared to the age of the sale. [SR 1-1(a)(b); SR 1-4(a); SR 2-1(a)(b); SR 2-2(b)(viii)]
- Exclusion of the income approach has not been explained or supported. [SR 2-2(b)(vii)]
- Reconciliation does not address the quality of data in arriving at the final value. Results are presented in a manner that does not present sufficient information to enable clients and/or intended users to understand the report properly. The reconciliation indicates that the sales comparison approach was given the determining weight as to the final value indication, however, the report did not reconcile quality and quantity of data used in this approach to value. Based on the issues in the sales comparison approach it does not appear that Respondent has identified and/or analyzed sales from the subject market area, reducing the credibility of this approach to value and the credibility of the final value indication. [SR 1-1(b); SR 1-6(a); SR 2-1(b); SR 2-2(b)(viii)]

License History:	Registered Trainee	1/12/2007-12/16/2009
	Certified Residential	12/17/2009-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found that the inconsistencies within the report diminish the reliability of this report. The information provided and the opinions reported do not provide adequate support for the conclusions rendered. 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 Market Analysis and Highest and Best Use Course and a fifteen (15) hour Advanced Residential Applications and Case Studies Course to be satisfied within one hundred eighty (180) days of the execution of the Order. These terms are to be satisfied by Consent Order or Formal Hearing.

**Vote:** Mr. Green made a motion to amend Counsel's recommendation to send a Letter of Warning. Mr. Johnstone seconded the motion. The motion carried unopposed.

### **3. 2012026781**

This complaint was filed by a consumer and alleged that Respondent over-valued a residential property by using inappropriate comparable sales data.

Respondent sent a response to the complaint stating there were no indicators that he found to suggest this particular market was "unstable". The sale #1 was not only the most recent sale, but was located in the same subdivision and the largest in size sold in the past twelve (12) months. Respondent stated that it made sense to apply the most weight to that sale. Respondent stated that during the past year, home sales from this subdivision sold for an average of \$90.01 per square foot. When applied to the subject square footage that is \$165,438. Respondent stated that he realized price per square foot is not necessarily a good indicator of value for an assortment of reasons but, sometimes an indication as to whether or not you're in the "ball park" for value.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize information sufficient to identify the real estate involved in the appraisal, specifically the physical characteristics of the property. The appraisal report indicates that the subject has no fireplace; however, the sales comparison approach indicates that it has one fireplace. Both the Complainant and the Respondent agree that the subject has no fireplace. Because the fireplace is identified incorrectly in the sales comparison approach, all comparable sales are adjusted incorrectly by \$1500. [SR 2-2(b)(iii)]
- Respondent committed an error of commission that significantly affects the appraisal. [SR 1-1(b)]
- The appraisal report failed to summarize the rationale and support for site value. An opinion of site value is provided in the cost approach. The following statement is provided in support of the site value opinion: "Value obtained using data from the property assessor". Information obtained from the local tax assessor is not a recognized method of supporting a site value opinion. No analysis or support is provided either in the report or in the Respondent's work file. There are no analysis, summary, or reconciliation comments to support any site value at all. [SR 2-2(b)(viii)]
- Respondent failed to know and understand the proper procedures and techniques for site valuation. [Competency Rule]
- The appraisal report failed to reconcile the quality and quantity of data for the development of the site value. [SR 1-6(a)]
- The appraisal report failed to summarize the reconciliation of data in the sales comparison approach. The only statement provided in the report is: "Most

weight was given to comparable #1 due to most recent sale". This statement is insufficient to explain how Respondent arrived at the final opinion of \$165,000. Three of the four closed sales sold below \$160,000; the only sale that supports that appraised value sold for \$217,000 and has 2.3 acres as opposed to the subject's lot size being less than 1 acre. There is no discussion of the quantity or quality of the sales data available for this assignment. [SR 2-2(b)(viii), lines 789-791]

**Respondent's Response to Reviewer Conclusions:**

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed, and Respondent did send a response to those conclusions, stating that he realized that he put "no fireplace" on pages 1 and 6 but did reflect 1 fireplace in the market grid. Respondent stated he had discovered his mistake, but, by that time, had received the complaint and was reluctant to make corrections at that time. Respondent also noted that because this subdivision is zoned for residential use only, the highest and best use of this property as improved is as a single family home. It is the only legally permissible use available. Respondent stated that he did look at market sales and felt they supported the property assessors value, however, admits he should have been more analytical and offer more of an explanation as to why he felt the site value was correct. He looked at site sales and found support for the value used in the report. Respondent stated he believed the data contained in the report to be correct, but the analysis of both the site value and highest and best use should have been explained in more detail.

Licensing History:	Registered Trainee	8/9/1999-5/20/2007
	Certified Residential	5/21/2007-Present

Disciplinary History: 201000883-Dismissed; 201103073-Dismissed

**Reasoning and Recommendation:** The reviewer found multiple violations of USPAP within the report which warrant disciplinary action against Respondent. 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 Appraiser Site Valuation and Cost Approach Course to be satisfied within one hundred eighty (180) days of execution of the Order. These terms are to be satisfied by Consent Order or Formal Hearing.

**Vote:** Mr. Green made a motion to amend Counsel's recommendation to send a Letter of Warning. Mr. Phillips seconded the motion. The motion carried unopposed.

**4. 2012025481**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by using inappropriate choices of recently sold comparable homes in the area/market. Complainant stated that Respondent was asked to review her initial appraisal due to a discrepancy in appraised value. Such discrepancies include the choice of recently sold comparable homes in the area/market, houses with finished basements, and not receiving credit for a second bathroom. Respondent did not adjust the appraisal value after being requested to reconsider the value.

Respondent sent a response to the complaint stating that she was not asked at any time during the course of the assignment to review her "initial appraisal due to a discrepancy in the appraised value" from the other appraisal mentioned on the subject property performed by another appraiser, nor was she provided with a copy of that appraisal. Respondent was asked to reconsider her value opinion through a request from the client mortgage company. Respondent stated that the value opinion in her report presented to the client is well supported by market value, and that due to this being a revitalization neighborhood, there are many sales that may support a higher or lower value opinion. Per the scope of work of this assignment, Respondent stated she presented the best available comparable sales and did not mislead the client.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Identification of the Subject Property: The report did not contain the complete legal description of the subject property as provided in the CRS/Tax Report. The lot size was incorrectly reported as 10,850 square feet. The correct lot size is 0.22 acres or 9,583 square feet, shown on the CRS tax records from county Tax Assessor's Office. [SR 1-2(e)]
- Neighborhood: The report indicates that the prices are stable, and the Respondent provided two comparisons: the sales price and median sales price per square foot, both of which show a 3.6% and 3.2% decline during the past year. The report also stated that the property values have been increasing over time and that 2011 showed a slight decline of 1%. The data shows that in 2011, the market decreased 4.6% based on sales price and 6.5% based on sales price per square foot. Based on this information, property values should have shown declining and a 3% or more adjustment applied in the date of sale/time section. [SR 1-2(e); SR 2-2(b)(viii)]
- Site: The lot size was incorrectly reported as mentioned above. [SR 1-3; SR 2-2(b)(ix)]
- Sales Comparison Approach: Sale #1 had an increase in the sales price that was not discussed, explained, or adjusted for possible seller concessions. According to the listing broker, the seller paid all of the closing costs for the buyer, approximately 3%, and increased the sales price by the \$2,000. Sales #2 and #3 exceeded the median seller concession amount of \$4,100 as stated in the 1004 MC report. There was no discussion or explanation of the difference and no statement provided of a typical range or amount. Sales #2 and #4 had locational/site differences as compared to the subject that were not discussed, explained, or compared. Sale #2 was located east of Gallatin Road, which has superior property values as compared to the west side of Gallatin Road. Sale #4 was located on a busy access/connector road, and this was not discussed or explained by Respondent. Sale #3 had a 1 car detached garage, but the driveway went to a 1 car carport. The carport or use as a covered patio area was not mentioned. There was no driveway to the garage located in the rear of the yard, which presents an access problem. This forma of functional obsolescence was not discussed or explained in the report. [SR 1-4(a); SR 2-2(b)(viii)]
- Cost Approach: No summary of the reasoning supporting the exclusion of the cost approach was provided. [SR 2-2(b)(viii)]

- Reconciliation: A reconciliation of the three approaches was not provided. It only addressed the sales comparison approach. It did not include statements as to why the cost approach or income approach was not used. [SR 2-2(b)(viii)]

Respondent's Response to Reviewer Conclusions:

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. Respondent did provide a response to the reviewer's conclusions on April 30, 2013. Respondent indicated in her response that the subject lot is somewhat irregular in shape and the CRS lists a lot size of 9,583 square feet. However, the CRS Power Tool Calculation lists the actual square footage as 10,942 square feet. The original appraisal report lists 10,850 square feet. According to Respondent, the square foot difference is nominal and has no impact on the value of the property. With regard to the neighborhood section, Respondent is of the opinion that when examining this location and the economic attributes of the area, the decline cited by the reviewer represents the typical ebb and flow of the market, as well as the imperfectness of the real estate market. It is her professional opinion that the market area is stable in this area and not declining, and there was no violation of SR 1-2(e) when she stated that opinion. As for the reviewer's concerns regarding the five comparable sales used, Respondent stated that regarding sale #1, the claim is there is an increase in sales price that was not discussed. Respondent stated that this sale closed \$2,000 above list price, and the data source is the MTR MLS, is information entered by the Realtor. The MLS is deemed to be reliable, and it is not uncommon for listings in this market to sell at or above list price. As for Sales #2 and #4, Respondent suggests these properties are good value indicators, and it was not necessary to discuss the busy road, in order to comply with the rule. There are other locational factors in this transitional market that would be considered more of a concern than this busy road. As to Sale #3, Respondent stated she used the MLS as a primary data source. Sale #3 has a driveway and detached one stall garage as reported in the original appraisal. The driveway connects to the garage. The review is in error, in the opinion of Respondent. Respondent states that in this particular appraisal, it was not deemed appropriate to use the cost approach. Respondent stated that the reviewer does not find that the cost approach should have been used, and given the 68 year old age of the dwelling, the cost approach would not have been necessary for credible assignment results, nor is it required by Fannie Mae or the client requesting the appraisal and the scope of work of this assignment. Respondent states that the same is true for the income approach, which Respondent did not deem appropriate for this appraisal assignment. Respondent suggests that the complaint was filed by a person who was not her client, as defined in the rules. The intended user of the appraisal report is the lender/client, and the intended use is to evaluate the property for a mortgage finance transaction. Respondent stated she used recognized methods and techniques to employ a credible appraisal and did not commit a substantial error or omission that significantly affects the appraisal.

Licensing History:	Licensed RE Appraiser	12/30/2006-4/19/2009
	Certified Residential	4/20/2009-Present
Disciplinary History:	201002703-Dismissed	

Reasoning and Recommendation: Counsel recommends that this matter be Closed with a Letter of Instruction, referencing consideration of the definition of value included in the appraisal assignment (seller concession adjustments) and the reasoning for exclusion of any of the approaches to value, based on SR 1-4(a) & SR 2-2(b)(viii).

**Vote:** Mr. Johnstone made a motion to amend Counsel's recommendation to dismiss the complaint. Mr. Phillips seconded the motion. The motion carried unopposed.

**5. 2012017651**

**RE-PRESENTATION**

\*\*\*\*This matter is being re-presented from the March 2013 Commission meeting.

This complaint was filed by a consumer and alleged unlicensed conduct on the part of Respondent, in his appraisal of an airport property without valid licensure to do so.

Respondent, who holds certified general appraisal licenses in New Jersey and Texas, admits in his response that he did not have a Non-Resident Temporary Practice Permit at the time the appraisal was conducted in the state of Tennessee, as required by T.C.A. 62-39-338.

This matter was presented at the March 2013 Commission meeting, and the Board authorized a civil penalty in the amount of Eight Thousand Dollars (\$8,000.00) for unlicensed activity on the part of Respondent. After the Consent Order was offered to Respondent, Respondent contacted legal counsel to discuss the matter. During a phone conversation with Respondent, he admitted full responsibility for doing the appraisal without a license. Respondent reiterated that the Complaint was not his client for this appraisal, rather his responsibilities were to the attorney for the individuals who hired Respondent to appraise their airport property in early 2012. Respondent submitted that the timing for the appraisal work was not under his control. Respondent submitted written documentation to legal counsel, referencing specific dates for the completion of the appraisal work, which counsel did not have access to when the matter was previously presented to the board. In his letter, Respondent indicated that the December 31, 2011 date of the appraisal represented a retrospective value that was agreed upon by the parties involved in the dispute over the value of the ownership assets relating to the airport facility, and that Respondent was not working on the appraisal as of the date of the appraisal. Work on the appraisal began when the property was inspected on March 12, 2012. The appraisal was completed in May, and the Respondent submitted an invoice indicating that he submitted his final bill and closed the file, as of this date. The changes that were made to the appraisal that were made after that point, involved minor clarifications requested by the attorney and were not substantive in nature. Respondent stated that he did not work on the appraisal for the eight months originally indicated by the Commission.

Respondent submitted, along with the documentation summarized above, a billing invoice for services, indicating that services were completed May 25, 2012. In addition, Respondent submitted air travel confirmation schedules, as well as a letter from the individuals who requested the appraisal stating that Respondent never produced an appraisal for the Complainant, nor misrepresented himself to Complainant, a former business partner. This letter stated that Respondent only worked on the appraisal from early March to early June. The December 2011 date of the report was chosen because

of the agreement between the principles of the company that owns the assets under valuation. This letter requests that the Board reduce the penalty, based on the information provided. Documentation was also submitted by Respondent's attorney, requesting a decrease in the civil penalty amount.

To summarize, Respondent was initially retained to perform the appraisal via engagement letter in late January 2012. Respondent actually began work on the appraisal by performing a property inspection on March 12, 2012. The invoice for services rendered indicates this is the proper start date. The appraisal report was submitted by Respondent to the attorney on June 8, 2012. Respondent was granted a Temporary Practice Permit in September 2012.

Licensing History:           None/Unlicensed

Disciplinary History:       None

Reasoning and Recommendation: Based on the new information/documentation provided by Respondent, Counsel recommends the authorization of a civil penalty in the amount of Three Thousand Dollars (\$3,000.00) for unlicensed activity on the part of Respondent for a period of approximately three months (88 days), to be settled by Consent Order or Formal Hearing. This amount is in lieu of the previously authorized Eight Thousand Dollar (\$8,000) civil penalty by the Commission. The civil penalty should serve as a sufficient economic deterrent while also protecting the interest of the public. These terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Green made a motion to amend counsel's recommendation to make the civil penalty one thousand dollars (\$1000) per month for the period of unlicensed activity which was from March to September. Mr. Johnstone seconded the motion. The motion carried unopposed.

## **6.     2012026911**

This complaint was filed by a fellow practitioner and alleged that Respondent did not state the owner of record and went outside the area to obtain sales. Complainant also alleged that Respondent used one sale that had a recorded sales price of \$229,900 and was listed for sale at that time for \$179,900.

Respondent gave a summary of his response to the complaint, which was extremely difficult to understand, that stated the appraisal in question was completed over seven (7) years ago, and during that time there was a high influx of new developing subdivisions in this market with small sites. Respondent stated that the owner of record in 2004 was a specific individual, and he cannot say whether this individual quit claimed the property to another individual the same day. Regarding the comparable in question, the \$179,900 was an expired listing. The \$179,900 price was if the home was purchased with only 2.25 acres, and the home was listed for 2.25 acres of the total 4.25 acre tract. The listing for \$229,900 was if you purchased the home, and the total 4.25 acre tract, and that is the actual transaction. Also, the comparables used were all located in the same area.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Identification of the Subject Property: Information obtained through MLS for the review, indicates some differences in the information presented in the appraisal report under review. The report indicates that the subject county identifies the parcel as #D0207 H00032. According to current records the property is identified as #D02207 H00197. It appears that the subject property was split off a larger family owned parcel which may account for the parcel ID difference. The legal description noted in the report is as follows, "Lot 99, Bridgewater". According to MLS and the county Assessor's Office, the legal description is stated as, "Lot 1, Miller Subdivision". The borrower and current owner was shown in the appraisal report as specific individuals. A search of the county Register's Office web site indicated that as of the effective date of the appraisal report (May 5, 2005), the owner of record was a different individual. Based on the information researched and provided, the subject section of the report did not provide accurate information. [SR 1-1(b); SR 1-2(e)(i); SR 2-1(b); SR 2-2(b)(iii)]
- Sales History: The report indicates that there was, "no record of sale in the past 36 months". Based on the reviewer's investigation that there were three transactions that took place prior to the effective date of May 5, 2005. The sales history information does not appear to have been adequately reported. [SR 1-5(a)(b); SR 2-2(b)(ix)]
- Neighborhood: The eastern boundary seems to be extreme and out of the immediate market area. Based on the information accessed from MLS, the price range and predominant value may not be accurately portrayed. According to MLS, the sales price range for area 792D is \$45,000 to \$175,831 with an average sales price of \$123,679 and a median price of \$123,900. [SR 1-2(e)(i); SR 2-2(b)(iii)]
- Sales Comparison Approach: Based on the information provided in the report, it does not appear that sales data from the same or similar market area have been considered. Information about some of the sales used was not reported or was reported incorrectly. A review of the comments available in the report does not provide adequate reasoning, for the adjustments, analysis, opinions, and conclusions. The lack of analysis reduces the credibility of the opinions and conclusions provided in the report. [SR 1-1(b); SR 1-4(a); SR 2-1(b); SR 2-2(b)(ix)]
- Site Value/Cost Approach: A \$60,000 site value was noted in the cost approach section of the report. There was no information provided in the report supporting the site value. [SR 1-4(b)(i); SR 2-2(b)(ix)]
- Reconciliation: While the applicability of the approaches have been somewhat discussed, the quality and quantity of data available and analyzed have not been adequately discussed or reconciled. [SR 1-6(a); SR 2-2(b)(ix)]
- Hypothetical Condition: The report under review was completed, "subject to plans and specifications," which is a hypothetical condition. The effect of the

hypothetical condition was not discussed. [SR 1-2(h); SR 1-4(h)(i)(ii); SR 2-2(b)(viii)]

Licensing History:	Registered Trainee	5/18/1999-4/13/2003
	Licensed RE Appraiser	4/14/2003-6/1/2005
	Certified Residential	6/2/2005-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found that the inconsistencies in the report diminish the reliability of the report, and that all pertinent and factual data were not properly analyzed. The appraisal report does not contain sufficient information or analysis to enable the client and/or intended users to be able to understand the opinions and conclusions provided in the report. 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 thirty (30) hour Basic Appraisal Procedures Course to be satisfied within one hundred eighty (180) days of the execution of this Order. These terms are to be satisfied by Consent Order or Formal Hearing.

**Vote:** Mr. Johnstone made a motion to amend Counsel's recommendation to dismiss the complaint. Mr. Green seconded the motion. The motion carried unopposed.

#### **7. 2013004151**

This complaint was filed by a consumer and alleged the undervaluing of a residential property and bias/discrimination against a homeowner.

Respondent stated in his response to the complaint that Complainant claimed he gave credit for upgrades that the comparables had, however, Respondent failed to consider the upgrades that the subject property had. Respondent stated Complainant also claimed the he was going to value their property at \$165,000 and only raised it, reluctantly, to \$170,000 after the realtor provided him with comparables. Respondent stated that none of this was true. Respondent stated he never spoke with the listing agent or anyone else about the appraisal. Furthermore, Respondent stated he was already using one of the comparables the realtor provided, and the other four were not considered to be comparable in Respondent's opinion and were not used in the report, so the comparables provided had no bearing on Respondent's final value estimate. Respondent stated that everything in the complaint is blatantly wrong.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report indicates that the subject is not in a flood hazard area; however, the attached flood map shows that approximately half of the rear of the site is the floodplain due to a creek at the rear of the site. The appraisal report also omitted a previous listing of the subject within the previous 12 months. According to MTRMLS #1343911, the property was listed on March 6, 2012 for \$179,000. It was subsequently lowered to \$175,000 and expired after 185 days. This information is required by the client since it falls within the previous 12 months prior to the effective appraisal date. [SR 2-2(b)(iii)]

- Four facts suggest that the final value opinion is questionable. A \$5,000 unsupported view adjustment is made to each of the comparable sales. The 3 sales that are the most similar to the subject and located in the same subdivision are not given the most weight in the final value opinion. The 2 sales, representing the highest adjusted values are located outside the subject subdivision over 1.5 miles away and are larger in gross living area; yet, these sales are given the most weight to support an upper-end final value opinion. The rationale for using the upper end of the range includes the mention of basement storage in the subject; however, this storage area is not mentioned anywhere else in the appraisal report. [SR 2-2(b)(viii); SR 1-6(a); SR 2-1(b); Record Keeping Rule, line 299-301]
- The appraisal report states on page 1, and in the addendum, that the highest and best use is the current use of the property, but there is no summary of the support and rationale for this opinion. [SR 2-2(b)(ix)]
- There is no statement in the certification that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, line 877-879]

**Respondent's Response to Reviewer's Conclusions:**

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. Respondent did provide a response to the reviewer's conclusions on May 18, 2013. Respondent indicated in his response that the improvements are not in the flood plain, but the rear of the site is in the flood plain. Respondent indicated he pulled up the previous listing, however, he failed to include it in the report, by mistake. Respondent stated that he indicated in the report that he made the site adjustment based on the superior market appeal of backing up to the water, not to mention the size. As far as his opinion of value being \$170,000, Respondent stated that he stated in the report that the upper end of the value range was most representative based on the subject's condition and upgraded features, which the comparable sales did not possess, including new granite countertops, stainless steel appliances, new tile backsplash and flooring, etc. Respondent stated that in regard to the other USPAP violations found by the reviewer, he has no excuse, rather than there were simply oversights on his part.

Licensing History:                      Certified Residential                      7/13/1993-Present

Disciplinary History:                      None

**Reasoning and Recommendation:** The reviewer found that the quality of the appraiser's work is deficient in its compliance with USPAP. 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 USPAP Course to be satisfied within one hundred eighty (180) days of the execution of this Order. These terms are to be satisfied by Consent Order or Formal Hearing.

**Vote:** Mr. Johnstone made a motion to amend Counsel's recommendation to dismiss the complaint. Mr. Green seconded the motion. The motion carried unopposed.

**8. 2011030681**

**RE-PRESENTATION**

\*\*\*\*This matter is being re-presented from the April 2013 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 affect the value opinion in the appraisal for eminent domain purposes of a land acquisition of twelve (12) planned vacant lots. At its previous Commission meeting, the Commission voted to re-authorize the previous Consent Order in the amount of Five Hundred Dollars (\$500.00), along with a thirty (30) hour Valuation of Partial Acquisition C421 Course.

**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: Due to the fact that the Consent Order has already been submitted to Respondent once and rejected, and due to the nature of the information contained in the complaint file, Counsel recommends that the Commission authorize one board member to participate in an informal conference with Respondent, in order to determine what course of disciplinary action should be taken, if any. This particular member will have to recuse himself from the matter, should the matter proceed to a formal hearing. My recommendation would be to have Chairman Hall participate in the informal conference, due to the fact that he is local and has experience in this type of appraisal assignment.

**Vote:** Mr. Johnstone made a motion to amend counsel's recommendation to order a formal hearing. Mr. Green seconded the motion. The motion carried unopposed.

**9. 2012018931**

**RE-PRESENTATION**

\*\*\*\*This matter is being re-presented from the March 2013 Commission meeting.

This complaint was filed anonymously and alleged that Respondent communicated a misleading appraisal report, which indicated no sales through MLS in the past twelve (12) months in the subject neighborhood. In addition, the complaint alleged that Respondent misreported the comparable sales data in the appraisal report.

Respondent sent a response stating that when he was doing his research for this assignment, he found that no MLS information was available. However, he did have access to tax records. Respondent stated that the report was done using only court house records, with permission from the client. Respondent also stated that the comparable sales used were proper, with the exception of possibly an incorrect picture being used, but that it did not have an effect on the estimation of value.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize the rationale and support for site value. An opinion of site value is provided in the cost approach, yet the report has no statement or summary indicating the highest and best use of the site as-vacant and no information whatsoever to support the site value conclusion. [SR 2-2(b)(viii) & (ix)]
- Respondent failed to disclose and correct a lack of geographical competence in performing the assignment. [Competency Rule]

Licensing History	Registered Trainee	2/11/2004-8/23/2006
	Certified Residential	8/24/2006-Present

Disciplinary History: (201102316 – Closed, Respondent fully complied with terms of the Consent Order, which required CE courses only)

Reasoning and Recommendation: The Commission had previously authorized a Consent Order requiring 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. After the Consent Order was sent to the Respondent, Respondent requested that an informal conference via telephone, due to health concerns, with Executive Director Avers and I, to discuss the Order, as well as the inability to pay the penalty due to financial reasons. The informal conference consisted of a conversation on the main issue, which was the reviewer's conclusion that Respondent failed to disclose and correct a lack of geographic competence in performing the specific appraisal assignment. The appraisal report stated in the sales comparison comments, and the Respondent stated in the informal conference, that there were no MLS closings in this neighborhood in the past twelve (12) months. Even though no closings were found in Respondent's MLS market area, the subject city area has its own, separate MLS system, which Respondent admitted he did not have access to during the informal conference. Even though Respondent admitted that he did not have access to the subject city area MLS, he explained that he felt competent to perform the appraisal with the tax cards that he did have access to, and Respondent stated that he informed the mortgage company of this limited access and got their approval to continue with the appraisal. Respondent explained that he felt he could develop a credible appraisal

report with the data he had. However, Respondent did sign the appraiser certification form stating that he did have access to MLS data. Due to a serious medical condition, Respondent has expressed that he is unable to pay a more significant civil penalty, and due to the fact that Respondent has previously completed CE hours regarding site value issues, Counsel recommends that the Consent Order be modified to reflect a Five Hundred Dollar (\$500.00) civil penalty, in lieu of the previously authorized Consent Order reflecting the One Thousand Dollar (\$1,000.00) civil penalty. These terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Green made a motion to amend Counsel's recommendation to change the civil penalty to five hundred dollars (\$500) with a 7hour USPAP class. Mr. Johnstone seconded the motion. The motion carried unopposed.

**10. 2012026971**

**RE-PRESENTATION**

\*\*\*This matter is being re-presented from the April 2013 Commission meeting.

This complaint was filed by a consumer and alleged that Respondent performed an appraisal, and the report contained numerous errors which affected the value opinion in the appraisal.

Respondent sent a response stating that this particular assignment was accepted by a client that has given him several appraisals and that he has even received one from the Complainant since this complaint was filed. Respondent stated that he accepted this assignment as the client needed a rush on the appraisal report. Respondent admits that by being in a rush to complete the report, he became sloppy and made mistakes. However, Respondent does not believe that the typos that were made had any reflection on the final value of this property. Respondent stated that he will no longer accept a report in a rush.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize information sufficient to identify the real estate involved in the appraisal, specifically, the physical characteristics of the property. The year built is indicated in the report as 1982, but public records indicate that it was built in 1976. The addendum of the appraisal states that the subject is "newly constructed," but the property was built in 1976 and is not newly constructed. The report indicates that the subject has a fireplace; however, in the sales comparison grid, the subject is shown as having no fireplace. [SR 2-2(b)(iii)]
- Respondent rendered appraisal services in a careless or negligent manner by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results. [SR 1-1(c)]
- The appraisal report failed to develop an exposure time and state that opinion in the report. [SR 1-2(c), line 506; SR 2-2(b), line 766-767]
- The appraisal report failed to summarize the rationale and support for site value. The following statement is provided in support of the site value opinion: "The site value is based on the cost of similar land in the area." No land sales are provided in the report to support the site value conclusion, and there is no

summary of support and no reconciliation of land sales to support any site value at all. [SR 2-2(b)(viii)]

- The appraisal report failed to develop a highest and best use opinion for the market value of the subject site. [SR 1-3(b)]
- The appraisal report failed to summarize the rationale and support for highest and best use. [SR 2-2(b)(ix)]
- The appraisal report failed to reconcile the quality and quantity of data for the development of the site value. Three sales are used in the analysis with a wide range of adjusted values (approximately \$157,000-\$173,000). The statement of reconciliation is generic and does not convey the reasoning or support for the final value opinion of \$166,000. [SR 1-6(a)]
- The appraisal report failed to summarize the reconciliation of data. [SR 2-2(b)(viii), lines 789-791.
- Respondent failed to submit a report that contained sufficient information to enable the intended users to understand the report properly. [SR 2-1(b)]
- Respondent failed to state in the certification whether previous services have been performed on the subject within the previous 3 years. [SR 2-3, lines 877-879]
- Respondent failed to maintain information and documentation to support the opinions and conclusions in the work file. [Record Keeping Rule, lines 299-301]

Licensing History:	Registered Trainee	3/18/1992-2/3/1999
	Certified Residential	2/4/1999-Present

Disciplinary History:           None

Reasoning and Recommendation: The Commission had previously authorized a Consent Order requiring 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, as well as a fifteen (15) hour Site Valuation and Cost Approach Course and a fifteen (15) hour Residential Report Writing Course. After the Consent Order was sent to the Respondent, Respondent requested that an informal conference be conducted via telephone, with Executive Director Avers and I, to discuss the Order. It was determined during the informal conference that Respondent's main issue was failure to properly document land sales, in that his report did not contain adequate rationale in the reconciliation. Respondent needs to better explain/document how he got to the values in his report so that the intended user can better understand the report. Respondent was able to support his numbers during the informal conference, it was just determined that he needs to give a better road-map as to how he reached those numbers. As such, Counsel recommends Closure of the matter with a Letter of Warning regarding the importance of explaining the rationale behind Respondent's conclusions, in lieu of the previously authorized Consent Order.

**Vote:** Mr. Green made a motion to accept Counsel's recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

**11.    2012021011**

**RE-PRESENTATION**

\*\*\*\*This matter is being re-presented from the April 2013 Commission meeting.

This complaint was filed by an Appraisal Management Company and alleged that Respondent over-valued a residential property in a revised report, by removing the previous comparable and replaced it with a comparable that was double the size of the subject in GLA. When Respondent submitted the revised report, it contained a message stating, "Owner requested revision after providing costs estimate for renovation. We actually found another sale in the area which was appropriate." Complainant alleged that due to the borrower's direct contact with the Respondent, the appraiser uploaded a report removing the previous comparable #1 and replaced it with a comparable that was more than double the size of the subject in GLS and in basement GLA. The opinion of value changed from \$400,000 to \$450,000. Complainant alleged that pursuant to Dodd Frank, this is a material error in the submitted report.

Respondent stated in his response that the complaint is without merit due to the following issues.

- 1) The complaint indicates that Respondent removed a comparable and replaced it with a higher comparable, which is not the case. Instead, Respondent states he added the comparable and moved comparable #1 to comparable #4 within the report.
- 2) The AMC did not respond to their client (the homeowner) in a reasonable time frame, which caused delays in the mortgage loan process and frustrated the owner. The owner was not getting any responses from the AMC and had no other choice but to contact Respondent directly.

Respondent claimed that during a subsequent search of the area, he found a comparable within the subject market area that provided evidence that the subject improvements added additional value to the home. Respondent proceeded to revise the report adding the cost estimates provided by the owner and place comparable #1 as the new sale and moved the other comparable to #4. Respondent claimed he notified Complainant of the situation, and that once the AMC received the revised report, they never requested any changes to the report.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment. The appraisal report failed to contain sufficient information to enable the intended users to understand the report properly. The appraisal report failed to clearly and accurately disclose all assumptions used in the assignment. A few photos are provided in the report that show some work taking place in the basement and yard; however, there is no mention of these conditions anywhere else in the report and no analysis as to their impact on the property value. The legal description indicates that there are two separate lots involved in this appraisal, however, there is no further description of the two separate parcels in the report or whether they are being appraised together as-if they are one lot. The report failed to state that the subject property was located on a lake. [SR 2-2(b)(iii); SR 2-1(b); SR 2-1(c)]

- The appraisal report does not have an opinion of exposure time. [SR 1-2(c), line 506; SR 2-2(b), line 766-767]
- The report failed to summarize the reasoning that supports the opinion of site value stated in the report. [SR 2-2(b)(viii)]
- The adjustments for site size of the comparable sales are inconsistently applied and, there is no summary of the support for these adjustments. [SR 2-2(b)(viii)]
- The appraiser failed to collect, verify, and analyze all information necessary for credible assignment results. [SR 1-4, line 560-561]
- The appraisal report failed to reconcile the quality and quantity of data available and analyzed within the approaches used. The range of value was a 36% variance. The reconciliation indicates all sales were given equal weight, but the final value indication does not support this statement. [SR 1-6(a); SR 2-2(b)(viii)]
- The appraiser made several unsupported assumptions about market trends, and the Respondent's data appears to conflict this supply and demand being in balance. [SR 1-3(a)]
- The appraiser failed to know and understand the proper procedures and techniques for site valuation. [Competency Rule]
- The appraiser failed to maintain in the workfile, all data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP. [Record Keeping Rule, line 299-301]
- The appraisal report failed to summarize the support and rationale for the appraiser's opinion of highest and best use. [SR 2-2(b)(ix)]
- The appraisal report failed to clearly and conspicuously state all extraordinary assumptions and hypothetical conditions and state the effect their use might have on the assignment results. The subject property consists of two lots, but the analysis applied indicates the property was appraised as if the lots were assembled. [SR 2-2(b)(x), line 862-864]
- The appraisal report contained no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, line 877-879]
- The appraisal report was changed 3 days subsequent to the original communication of the report, but the appraiser failed to accurately report the date and analysis on the second appraisal. [SR 2-2(b)(vi)]
- The cumulative violations of this report have failed to promote and maintain the public trust. [Ethics Rule, line 197]
- Changing the value to favor the borrower, after having direct contact with the borrower after the original report was submitted, gives the strong appearance that the appraiser did not perform this assignment with impartiality and independence. The additional sale added to the second appraisal was over twice as large in GLA to the subject, and the site size was over five times as large. There is no reconciliation in the report to support the inclusion of this sale or the **\$50,000** change in value opinion. [Ethics Rule, line 209]
- The cumulative violations of this report constitute a grossly negligent performance on the part of the appraiser. [Ethics Rule, line 229]
- The appraiser did not correctly complete research and analysis necessary to produce a credible appraisal. [SR 1, line 456-458]
- The appraiser does not understand and did not correctly employ recognized methods and techniques necessary to produce a credible appraisal. [SR 1-1(a)]

- The appraiser did render appraisal services in a careless and negligent manner that affected the credibility of the results. [SR 1-1(c)]

License History: Certified General 12/31/1991-Present

Disciplinary History: None

**Recommendation and Reasoning:** The Commission had previously authorized a Consent Order requiring 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, as well as a fifteen (15) hour USPAP Course and a thirty (30) hour Sales Comparison and Income Approach Course. After the Consent Order was sent to the Respondent, Respondent requested that an informal conference be conducted in person, with Executive Director Avers and I, to discuss the Order. At the informal conference, Respondent submitted a lengthy written response to the stipulated facts noted in the Order. Some of the main issues that seem to be prevalent in Respondent's report were the failure to support opinions and conclusions within the summary appraisal, such as for site value indicated by Respondent. In addition, a major issue was that the appraisal report was changed/revised subsequent to the original report, but the appraiser failed to change/accurately report the date and analysis on the revised appraisal. It was determined in the informal conference that Respondent had recently taken an Advanced Sales Comparison and Cost Approach Course in 2011. As such, Counsel recommends that the continuing education hours be redacted from the original Consent Order. Counsel recommends that a modified Consent Order be submitted to reflect the original One Thousand Dollar (\$1,000) civil penalty with no continuing education hours. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Johnstone made a motion to accept Counsel's recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

## **DIRECTOR'S REPORT**

In the Director's report, Ms. Avers informed the Commission that the Division of Regulatory Boards moved back into the Davy Crockett building the first week of May – with the Real Estate Appraiser Commission administrative office on the fourth floor. She also reported that she had met with Real Estate Director, Ms. Maxwell and Security Guards Director, Ms. Vest to discuss implementation with regard to the upcoming background checks and finger printing procedures in January of 2015. Ms. Avers ended with an overview on the past two years Budget information.

### **Letter to Commission – Farrar (on-line Qualifying Education)**

Ms. Avers presented an email from Ms. Farrar who had requested that the Board consider her request to be able to take Qualifying Education online. The Commission discussed the rationale for not allowing qualifying education.

### **Vice-President's Report – AARO Conference Updates**

Mr. Green shared his experiences and observations from the AARO conference at the end of April in Austin, TX. He reported that investigator training had been discussed as a great idea and suggested the reviewers and board counsel could benefit. He noted

that 'Synchronous/Webinars' were becoming a trend and could perhaps work as qualifying education at some point in the future. He discussed the ASC complaint hotline and changes to USPAP. One of the hot topics at the AARO conference was the fingerprint and background checks which will be required of all States by 2015. The Texas administrative state gave a presentation and Mr. Green discussed some of the points he took away from that presentation with the other Commission members. He also discussed the upcoming requirements for supervisors and trainees as part of the 2015 changes and the course that will be required as part of this requirement. He also report on the AMC requirements and discussed how other States are regulating AMC currently as discussed at the AARO conference.

Ms. Avers added that she felt Mr. Green and at least one other representative of the Commission should go to the next AARO conference.

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Being no further business, the meeting was adjourned at 4:10 p.m. on June 10<sup>th</sup>, 2013.