



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

January 13<sup>th</sup>, 2014  
Minutes  
First Floor Conference Room (1-B)  
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on January 13<sup>th</sup>, 2014 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Johnstone called the meeting to order at 9:10 a.m. and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Mark Johnstone  
Norman Hall  
Timothy Walton  
Gary Standifer  
Rosemarie Johnson  
Dr. Edward A. Baryla

**COMMISSION MEMBERS ABSENT**

Michael Green  
Nancy Point  
Eric Collinsworth

**STAFF MEMBERS PRESENT**

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

Mr. Johnstone read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on January 2nd, 2014.

**ADOPT AGENDA**

Mr. Hall made the motion to accept the agenda. It was seconded by Mr. Walton.  
The motion carried unopposed.

**DIRECTOR'S REPORT**

Director Avers recommended that the board approve three board members; Mr. Green, Mr. Johnstone, and Mr. Collinsworth; the executive director, Nikole Avers; and the board attorney, Keeling Baird, to attend the upcoming Association of Appraiser Regulatory Officials (AARO) conference in San Francisco, CA on April 11<sup>th</sup> – 14<sup>th</sup>, 2014.

**Vote:** Mr. Walton made a motion to approve the director's recommendation on the attendees at the AARO conference in April. This was seconded by Mr. Hall. The motion carried unopposed.

Director Avers ended by presenting Dr. Baryla with a commemorative plaque in recognition for his service to the board.

## MINUTES

The December 9<sup>th</sup>, 2013 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Mr. Walton. The motion carried unopposed.

## REPORT OF EXPERIENCE INTERVIEWS

**Benjamin T. Coonce** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Hall was the reviewer and recommended that the experience credit request be granted. Ms. Johnson made a motion to approve his request. This was seconded by Mr. Walton. The motion carried unopposed.

**Darinda M. White** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Standifer was the reviewer and recommended that she send in one commercial demonstration report and two additional reports that could be agricultural/farm appraisals, after which a second experience interview would be conducted. Mr. Hall made a motion to approve this recommendation. This was seconded by Ms. Johnson. The motion carried unopposed.

**Odus W. Smith** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Mr. Walton was the reviewer and recommended his experience credit request be approved. Mr. Hall made the motion to approve this experience request. This was seconded by Mr. Standifer. The motion carried unopposed.

**John Gabriel Martin** made an application to upgrade from a certified residential real estate appraiser to a certified general real estate appraiser. Since Mr. Johnstone was the reviewer, he handed the meeting over to Mr. Hall to conduct the motion and voting process. Mr. Johnstone recommended that the experience credit request be granted. Mr. Walton made a motion to approve his request. This was seconded by Mr. Standifer. The motion carried unopposed.

## JANUARY 2014 - EDUCATION COMMITTEE REPORT

Dr. Baryla reviewed the submissions for course approvals and read his recommendations into the record, as below:

| Course Provider     | Course Number | Course Name   | Instructors  | Hours Requested by Provider | Type | Rec. |
|---------------------|---------------|---|--|-----------------------------|------|------|
| Appraisal Institute | 1719          | Advanced Spreadsheet Modeling for Valuation Application | Jim Amarin   | Class: 14<br>Exam: 1        | CE   | For  |
| Bryan S. Reynolds   | 1720          | USPAP Update Class 300                                  | B. Reynolds  | 7                           | CE   | For  |
| Bryan S. Reynolds   | 1721          | Today's FHA and VA 200                                  | B. Reynolds, C. J. Wells,<br>A. M. Chalos, K. Hardin,<br>R. Norris | 7                           | CE   | For  |
| TREES / TAPS        | 1722          | Defensible Appraisal Practices                          | R. Oslin, V. Boyd, C. Carter                                       | 7                           | CE   | For  |

## INDIVIDUAL COURSE APPROVAL REQUESTS

| Licensee                      | Course Provider  | Course Name                                    | Hours | Type | Rec. |
|-------------------------------|--|--|-------|------|------|
| Tiffany G. Marsh<br>(CG-1634) | IAAO (International Association of Assessing Officers) | 312. Commercial / Industrial Modeling Concepts | 30    | CE   | For  |

## FORMAL HEARING

The Commission held a formal hearing in the case of David Harris before Judge Mattielyn Williams, attended by court reporter Wilma Hutchison. Mr. Hall recused from attendance during the formal hearing.

At the conclusion of the formal hearing, Mr. Hall rejoined the Commission meeting and Ms. Johnson left the meeting.

## **LEGAL REPORT**

### **1. 2013012121**

This complaint was filed by a consumer and alleged the under-valuing of a residential property by using inappropriate comparable sales data. The complaint alleged that Respondent used comparable sales that were close to or over six (6) months old in appraising the property when more recent sales were available. In addition, the complaint alleged that the changes in market conditions were not taken into account, which constitutes negligence.

Respondent sent a response to the complaint, stating that it is recognized that the comparable sales are over six (6) months old, as stated in the appraisal report. All sales are within the subject development. Respondent stated that general appraisal guidelines, established by Fannie Me, Freddie Mac, FHA, and VA, will accept closed sales up to twelve (12) months old. The use of subject development sales is a required guideline. The greatest emphasis of value is placed on subject development data. As of the date of inspection, only four (4) closed sales have occurred in the subject development, in the past twelve (12) months, all of which were used in the appraisal. The sales chosen are the most recent and pertinent, which reflect the market for the subject development.

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

- The appraisal report incorrectly identifies the subject neighborhood boundaries. The neighborhood described in the appraisal report is located in a different county in a completely different market area. This appears to have been the result of copying an old report or using a template and neglecting to update the data in the neighborhood boundaries. It adversely affects the credibility of the entire market analysis on the front page of the report because it leads to uncertainty as to whether all of the other market analysis conclusions were incorrectly copied from an old report or template. [SR 1-1(b)(c); SR 2-2(b)(iii)]
- The appraiser failed to properly analyze and summarize the sales contract in the following ways: The copy of the sales contract found in the appraiser's workfile is not signed by the seller; therefore, the copy in the file is not a valid contract buy only an offer by the buyer. The indicated contract price is \$312,000, but the appraised value indicated in the appraisal report is \$280,000; this is a difference of \$32,000 and is not analyzed in the report to explain this substantial difference. [SR 1-5(a); SR 2-1(b); SR 2-2(b)(viii); Record Keeping Rule, lines 299-301]
- With regard to the sales comparison approach, the subject is a 1-story home with an upstairs bonus room; most of the homes in the subdivision, and all of the comparable sales used in the report, are 2-story homes. The report has no discussion as to whether the market is willing to pay more for a 1-story home over a 2-story, and no adjustment is made for design. There is nothing found in the appraiser's workfile to indicate that an analysis for design was considered by the appraiser. [SR 1-1(b)(c); SR 1-4, lines 560-561; SR 2-1(b)]

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

Respondent sent a response to the reviewer's conclusions stating that in regard to bullet point #1, it is an error. With regard to bullet point #2, the sales contract was not signed by the seller. With regard to bullet #3, per GSE guidelines, comparable sales within the subject development are the most preferable. The subject development does consist of predominantly two-story homes. The development has a total of sixty-eight homes, four of which are one-story with bonus room, the

subject property being one of them. As reported in the appraisal, no closed sales had occurred within the subject development in the past seven months, which is an indicator within itself in regard to the development's activity/trends. With limited data for the development, no adjustment for design and appeal could be extracted from the market for a one-story with bonus room versus a two-story. Therefore, a buyer's willingness to pay more for a one-story with bonus room versus a two-story could not be supported.

**License History:** Certified Residential 10/11/1991-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the quality of Respondent's work was deficient in some areas of compliance with USPAP and, therefore, the credibility of the assignment results is impaired due to the non-compliance. Respondent has been a certified general appraiser for approximately twenty-two (22) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the violations noted by the reviewer above.

**Vote:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Dr. Baryla. The motion carried unopposed.

## 2. 2013017461

This complaint was filed by a consumer and alleged that the appraisal report was performed with predetermined bias: (1) questionable comparison selection, (2) ignored market trends, (3) disregarded circumstances pertaining to sales price for comparable, (4) and manipulated value cost approach estimates to justify overall appraisal. In addition, the complaint alleged that Respondent did not return the Complainant's phone calls. The complaint alleged that the appraisal did not accurately determine the value of the subject home.

Respondent sent a response to the complaint stating that the appraisal report in question was performed objectively, with no bias, and with no personal consideration. The results of the assignment are reasonable and fair.

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

- The appraiser's comments on the market conditions do not adequately describe the market. A significant factor that was not discussed in this appraisal was the overall price range of the subject neighborhood.
- The appraiser does not state the cost source for the cost approach except to say that the home is good quality and that the cost information is "published data and/or local builder data." The actual source of the published data should have been provided along with the effective date of the data. The appraiser's stated information on the quality and the typical cost data for good quality do not match. The appraiser did not state detailed land sales for the lot valuation.
- The appraiser did not adequately disclose the scope of work in the report. The type and extent of data researched was not identified and the type and extent of analyses applied to arrive at opinions or conclusions was not provided. The appraiser signed the scope of work statement in the limiting conditions that says that this was completed. [Scope of Work Rule]
- The appraiser did not develop an opinion of the highest and best use of the real estate beyond checking a box on the form. [SR 1-3]
- The estimated market value of the land as vacant was not supported in the appraisal by vacant land sales with an analysis. The appraiser did not include any stated sales or complete an extraction method with support. The cost approach shows that the quality

rating from the cost information is based on good quality, yet the actual cost figures appear to be more in line with average quality. This is not consistent. [SR 1-4]

- The appraiser did not adequately reconcile the quality and quantity of data available and analyzed within the approaches. The data source for the cost approach was not adequately described. [SR 1-6]

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

Respondent sent a response to the reviewer's conclusions, addressing each item, separately. With regard to the first item, Respondent stated the market condition comments are adequate, and Respondent disagrees with the opinion stated by the reviewer. In terms of the value range of the neighborhood, it is provided on the form and was Respondent's observation, as he saw the neighborhood. With regard to item 2, Respondent stated there are multiple sources of cost data that can be used or referenced, including Marshall and Swift as well as Craftsman National Estimator. It is also possible to extract costs from the market, or interview local contractors/builders. The statement used on the report recognizes the varying methods available and considered for use. Also, in this section the reviewer states the quality rating and "typical" cost data for good do not match. Respondent states that there can be quality ranges with general quality classes. Further, Respondent states an improvement could be well-constructed but of average finish, or vice versa. The subject presented some good characteristics, such as some wood floors, some tray ceilings, some stone fascia, but also presented non-solid surface counters in the kitchen, average baths, etc. For this reason, Respondent used the term "generally good" quality in the comments section, which Respondent believes is a reasonable characterization. Regarding detailed presentation of lot sales on the report, Respondent states that to his knowledge this is not a requirement of USPAP. With regard to the third item, Respondent stated a definition of value, and that the scope was defined by the complexity of the assignment. Respondent stated that at a minimum, he would perform an interior and exterior inspection of the subject property, inspect the neighborhood, inspect from at least the street all comparable sales used, etc., and he did all these things. With regard to the fourth item, Respondent stated that the subject was a single family improvement, in a single family subdivision, on a single family lot. There were no commercial influences, no industrial influences, no multi-family influences and no agricultural influences within the development. There is no other potential use but single family. Respondent stated that item 5 appears to repeat item 2. With regard to the sixth item, Respondent stated in the addendum that the sales comparison approach was given primary weight in the assignment, with cost approach providing some support. Primary weight is clearly placed on the sales comparison approach, as it was stated. Respondent stated that income approach was not applied as data was inadequate. Respondent believed this to adequately state where he placed most weight and why.

|                         |                    |                       |
|-------------------------|--------------------|-----------------------|
| <b>License History:</b> | Licensed Appraiser | 10/18/2004-11/16/2004 |
|                         | Expired            | 11/16/2004-2/6/2005   |
|                         | Active             | 2/7/2005-11/14/2006   |
|                         | Expired            | 11/15/2006-5/22/2007  |
|                         | Active             | 5/23/2007-Present     |

**Disciplinary History:** 2001037743-Closed

**Reasoning and Recommendation:** The reviewer found several violations of USPAP within the appraisal report. Respondent has been a licensed real estate appraiser for approximately nine (9) years, with some lapses in licensure during that time period. Respondent has had no prior disciplinary history. As such, Counsel recommends a fifteen (15) hour Residential Report Writing course to be completed within one hundred eighty (180) days of execution of this Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion to close the matter with a letter of warning. This was seconded by Dr. Baryla. The motion carried unopposed.

### 3. 2013016211

This complaint was filed by a bank and alleged that the original appraisal report included several red flags: excessive net and gross adjustments provided without support; across the board adjustments, impacting up to 29%; valued subject 42% above the list price and 18% above the sales price with no comment; provided data much further away than necessary; ignored data in closer proximity; no comment on the difference between county records and measured GLA.

Respondent sent a response to the complaint stating that she re-measured the entire residence and found no significant differences with her measurements. Respondent noted some differences in the county measurements but cannot answer for them. Respondent stated that the subject area is very mountainous, heavily wooded, and secluded; however, the subject property is not. The subject was listed for \$395,000; however, it was listed with only ten acres. The sale was with twenty acres. Due to the acreage, the quality, and size of the subject residence and the large finished area on the lower level, adjustments were higher than normal. Due to the limited data in this rural area, this was unavoidable.

The Respondent was also given the opportunity to respond to the reviewer's conclusions; however, no response was received by this office.

#### **REVEIWER CONCLUSIONS:**

- The subject information that includes the listing information did not adequately describe that the original list included 10 acres, while the sales contract included 20 acres.
- The appraiser did not provide additional information on the type and extent of analyses applied to arrive at opinions or conclusions. [Scope of Work Rule]
- The appraiser did not provide sufficient information on the physical, legal, and economic attributes of the property. The site was 20 acres and the appraisal lacked adequate description of the topography of the land (pasture or woodland, etc). The appraiser also did not comment on the appraised value being higher than the high-end of the one-unit housing range. [SR 1-2(e)]
- The appraiser did not provide information on the taxes for the subject property. Also, this property is in greenbelt tax status (over 15 acres of farmland) and that should have been discussed. [SR 1-2(e)]
- The appraiser did not analyze the relevant legal, physical and economic factors to the extent necessary to support the appraiser's highest and best use. The appraiser just checked the box on the URAR form and did not provide additional narrative. [SR 1-3(e)]
- The appraiser did not adequately analyze the contract or the listing information. A more detailed explanation of the twenty acres being included would have made the appraisal more understandable, and the contract indicates that the property may have been a working farm when the appraisal states that it is not a working farm. [SR 1-5]
- The appraiser did not reconcile the quality and quantity of data available and analyzed within the approaches used. [SR 1-6]
- The appraisal did not contain sufficient information to enable the intended users of the appraisal to understand the report properly. [SR 2-1]

**Licensing History:** Certified Residential 12/13/1991-Present

**Disciplinary History:** 200900563-Dismissed

**Reasoning and Recommendation:** The reviewer found several violations of USPAP when conducting the review. Respondent has been a certified general appraiser for approximately twenty-two (22) years with no prior disciplinary action. As such, Counsel recommends a fifteen (15) hour Residential Market Analysis and Highest & Best Use course to be completed within one

hundred eighty (180) days of execution of this Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Walton made a motion to close the matter with a letter of warning. This was seconded by Mr. Hall. The motion carried unopposed.

#### **4. 2013016871**

This complaint was filed by the property owner of a 19.5 acre tract of land. The complaint alleged that Respondent made several misstatements of facts and negligently performed the appraisal, resulting in an undervaluing of the subject property. Complainant alleged that Respondent appraised the subject property for \$975,000 in June 2013 and for \$2,050,000 in April 2012. The complaint alleged that both appraisals were "as is" market value assignment and had the same highest and best use. Marketing/exposure time was significantly different on the two reports; 6-12 months versus 1-2 years.

Respondent filed a lengthy response to both the complaint and the reviewer's conclusions, so the responses will be summarized in the Response to Reviewer's Conclusions section.

#### **REVEIWER CONCLUSIONS:**

- The location of the subject property was incorrectly identified. According to the information gathered for the review, the subject property is located in a specific city and was identified to be outside the city limits of this city. [SR 1-2(e)(i)]
- The subject property's zoning was not correctly identified. The report indicates the subject property does not fall under any zoning restriction, but based on the reviewers research the property is zoned B-1, General Business District. [SR 1-1(c); SR 1-2(e)(i)]
- The appraisal contained inconsistency in some of the sales information provided and lack of analysis of pertinent information (improvements, site size, and conditions of sale) regarding some of the sales used in the sales comparison approach to value. Sale #3 is shown to have 24.5 acres and the CRS report indicates 16.11 acres. Sale #4 was not properly identified and the improvements on parcel 002-001.01 were not discussed or analyzed. Sale #6 did not analyze the conditions of the sale, and it was not stated that it resold one month later to the current owner. [SR 1-1(b)(c); SR 1-4(a); SR 2-2(b)(viii)]

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

The Respondent did file a response to the reviewer's conclusions, addressing each bullet point above. With regard to the first bullet point, Respondent stated that the reviewer is correct in that the appraisal states that the subject property is located outside the city limits of the city. The property is located within the city limits. Respondent stated that as he finds this to be a critical element in the description of the property to be appraised and the analysis of highest and best use, therefore, he does not provide this explanation as an excuse for the error, but the reasoning for the mistake. This property was recently annexed into the city and, unfortunately, maps and information on file in his office depicting the subject property as being outside the city limits were recent maps but not the most current. With regard to the second bullet point, the error in not correctly identifying the subject property's zoning as B-1 General Business District, is a result of not correctly identifying the subject property within the city limits of the city. However, as indicated in the highest and best use, as vacant, the subject property is recognized as having a highest and best use "as vacant" for mixed-use development with commercial uses toward the highway frontage, which reflects the recognition of the possibilities for development of the subject property which the B-1 zoning regulations. With regard to bullet point three, Respondent stated it is indicated that sale #3 is shown to have 24.5 acres and the CRS report indicates 16.11 acres. However, as indicated by the attached deed, this sale consists of three tracts with some exceptions totaling 24.5 acres. Respondent stated it has been his experience and inclination to rely on the legal description of the warranty deed that is signed by both parties as opposed to the CRS report. Sale #4 also consisted of

three tracts and four tax parcels. This parcel, which contains 6.4 acres of the total 14.51 acres, was improved with an older metal building that was no longer in use and was not given any contributory value by the purchaser for future use. Sale #6 is a prior sale of the subject property, and the analysis and explanation for the resale one month later is thoroughly explained in the history section of this report. Respondent stated that the mistakes and typographical errors are not items that he takes lightly, nor does he consider them acceptable in any of his appraisal reports.

**Licensing History:** Certified General 10/4/1991-Present

**Disciplinary History:** 200704808-Closed with Letter of Caution

**Reasoning and Recommendation:** The reviewer found that with exception to the above-noted violations, the appraisal report does contain factual data that appears to have been analyzed and the appraisal report provided has been conveyed in a reasonable manner. The reviewer found sufficient information to enable the intended users to understand and rely on the conclusions presented. Overall, the report reflects that the Respondent does understand the appraisal process. Respondent has been a certified general appraiser for over twenty-two (22) years with only one prior disciplinary action against him (Letter of Caution in 2007). The admitted mistake by Respondent constituted a significant difference in dollar amount. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion to close the matter with a letter of caution. This was seconded by Mr. Walton. The motion carried unopposed.

## 5. 2013011711

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by using inappropriate comparable sales data, causing the Complainant permanent harm.

Respondent sent a response to the complaint, addressing the issues brought up by Complainant. Respondent stated that in his appraisal, he stated that exposure time for the subject is typically under six (6) months, except for the most unusual properties. The subject is a unique improvement. More importantly, there are limited sales and listings of attached improvements similar to the subject. There is not supportable data that would allow a comparison of attached (common wall) and detached (no common wall) units. Respondent stated the value of a one year difference in age cannot be extracted from the subject market and based on USPAP, an adjustment cannot be made if it lacks support from the market. The value differences of a first floor bedroom and a second floor bedroom cannot be extracted from the subject market. The \$21,000 adjustment to this listing is required by Fannie Mae and is based on the 1004MC and market trends, not value. This is not a deduction from the subject property but of the listing. Respondent noted that Complainant stated that the sketch of her home that Respondent presented in the appraisal omits both her patio and the porch/patio off the mudroom. The concrete slab off the mudroom is a small pad with a concrete walk way to the deck. The deck is in Respondent's sketch, however, looking at the hand drawn sketch, Respondent did notice that he failed to include the patio at the side of the subject property.

### **REVEIWER CONCLUSIONS:**

- The appraisal failed to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions. With regard to the sales comparison approach, several erroneous reporting items were noted with regard to Sale #1: the report indicates that the property is seven (7) years old when it was actually built in 1954 and is 59 years old; the report indicates no seller concessions, but MLS indicates that \$15,000 of seller concessions were paid; and the report indicates that the contract date is 11/12, but MLS indicates that it is 10/12. In



addition, this sale is approximately 1,000 square feet larger than the subject and is listed in MLS as having been on the market for zero days. Other sales are available in the market area that are more appropriate than this one. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]

- Sales #2 and #4 have the wrong picture in the photo addendum. The MLS for Sale #4 states that the property is “priced 50K below appraisal,” and eventually sells for \$69,500 below the list price after being on the market for 161 days. This property sold around \$100,000 less than all the other sales used in the report, yet it is treated as an arms-length transaction. There is no explanation in the appraisal report for these discrepancies. Sale #4 should not have been used in the analysis. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- The appraisal report indicates that normal marketing time is 3-6 months and that exposure time is under 6 months. Sale #3 was on the market for 251 days and Comparable #6 (an active listing) has been on the market for 258 days. There is no explanation as to why these properties exceeded the normal marketing and exposure times of less than 6 months. All sales used in the sales comparison analysis sold more than 6 months from the effective date of the appraisal. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- Four closed sales and two active listings are utilized in the sales comparison approach. These six indicators provide a high-low distribution of value from \$459,500-\$676,700; a range of \$217,200. The report concludes to a value opinion of \$550,000; the contract price of the property is \$605,000, a difference of \$55,000. Standards require an appraiser to reconcile the data in order to provide the rationale for the final value conclusion. The rationale to support this conclusion is not sufficiently provided in the report. [SR 1-1(c); SR 1-4(a); SR 1-6(a); SR 2-1(b); SR 2-2(b); SR 2-2(b)(viii); SR 2-2(b)(viii), Lines 789-791]
- The appraisal report states 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)]

Respondent was given the opportunity to respond to the reviewer’s conclusions in this matter; however, no response was received.

**Licensing History:** Certified General 1/6/2005-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** In addition to the violations noted above, the reviewer found that the Respondent did not exercise sufficient care to avoid errors in the sales comparison approach that significantly affect the credibility of the assignment results. As a whole, the reviewer found the Respondent’s work to be deficient in its compliance with USPAP. Respondent has been a certified general appraiser for almost nine (9) years with no prior disciplinary action against him. Due to the nature of the violations noted above, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Advanced Residential Applications and Case Studies course to be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Dr. Baryla made a motion to accept counsel’s recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

## 6. 2013018791

This complaint was filed by a consumer and alleged that Respondent over-valued a residential property by using inappropriate comparable sales data. The complaint alleged that Respondent lacked objectivity and accuracy in the appraisal report, resulting in, what Complainant believed to be a much higher value for the property than what can be supported objectively. Additionally, the

complaint alleged the Respondent violated the Appraiser Independence Guidelines by conversing with the selling realtor and obtaining comparable properties from the selling realtor's office, as well as conversing with the lender prior to the report release.

Respondent sent a response to the complaint stating that the allegation about conversing with the seller's agent was false. Respondent stated she had to call the listing agent's office to get permission and the information needed to gain access to the property. Respondent stated there was no conversation about value. Respondent stated she has never spoken to anyone at the lender's office. In choosing comparable sales for the subject property, Respondent stated she opened every single photo to see the interior photos of each sale that was available, as the subject is the best renovation that she has seen in the area. Respondent stated she only utilized totally renovated comparable properties, with basements for use in her report and for these reasons, these were the best comparable sales available. Respondent stated the subject is not located on a busy street considered by most market participants. The electrical lines in the front run down every street in the area, and are, therefore, considered typical. The unfinished area in the basement that Complainant spoke of is the mechanical/laundry room pictured in the report. These small areas are typically not taken out of the finished square footage by appraisers, whether it is above grade or below grade as this room is vital to the function of the entire dwelling and is very necessary. Respondent claims that all of Complainant's allegations can be summed up to meritless intimidation to try to influence her into lowering her final opinion of market value and impact her independence as an appraiser.

#### **REVIEWER CONCLUSIONS:**

- The subject's listing history is not correctly stated in the appraisal. The subject was originally listed in MLS on 10/15/2012 for \$199,900 and was on the market 37 days before being withdrawn. It was foreclosed on 12/6/2012 by HUD and then relisted in MLS for \$200,000 and was on the market 22 days before selling on 5/23/2013 for \$200,200. These two listings were not discussed in the listing history of the subject. [SR 1-5(a)]
- The market conditions section does not contain any data, analysis or support for the opinion of one-unit housing trends or the one-unit housing. Based on the stated neighborhood boundaries in the appraisal, the one-unit housing price range is not supported by using the MLS systems statistical tool when the NB stated where mapped. [SR 1-1(a)(b)(c); SR 1-2(e)(i); SR 1-3(a); SR 1-4(a); SR 1-6(a); SR 2-1(a)(b); SR 2-2(b)(iii)(viii)]
- The appraisal does not correctly show the specific zoning classification (Rs10) or the correct zoning description (single family-10,000sf lot). The appraisal does not develop or have an analysis of the highest and best use. The subject's site backs up and sides to a TVA power line easement that runs along the right side and behind the home. The subject is also located on a heavily traveled street, connecting numerous residential areas to shopping centers and a main interstate. There was no statement or discussion in the report on or about the traffic and noise associated with the site. This was not adjusted, discussed or addressed in the appraisal. [SR 1-1(b)(c); SR 1-3(a)(b)]
- The appraisal offered no discussion, analysis or detail of the renovations and updating that would lead the intended user to understand why the value increased \$140,000 in less than 6 months after being sold earlier this year as a HUD foreclosure property. [SR 1-2(e); SR 2-1(a)(b); SR 2-2(b)(iii)(viii)]
- An analysis of the neighborhood boundaries indicated an increase in the median sales price for the market area. The appraisal does not show an adjustment for the increasing property values. The appraisal does not support the lot adjustment on Sale 2, sale 5, and sale 6. The appraisal offers no dialog or discussion as to why the sales did not warrant an adjustment. There is no adjustment, analysis, discussion or support for the external obsolescence regarding the TVA power line easement or the subject being on a busy secondary street and the negative impact on value associated with the site. The subject's prior transfers were not reported. [SR 1-1(a)(b)(c); SR 1-5(b); SR 2-1(a)(b); SR 2-2(b)(viii)]

- The opinion of site value is not supported and appraisal or workfile data does not show the breakdown of the extraction method, which was stated to have been used. [SR 1-1(a)(c); SR 1-3(a)(b); SR 1-4(b)(i); SR 2-1(a)(b); SR 2-2(b)(viii)]
- The appraisal does not provide a discussion of the sales comparison approach in the reconciliation, summary of the sales comparison approach or other areas of the report. [SR 1-6(a)(b); SR 2-2(b)(viii)]

Respondent was also given the opportunity to respond to the reviewer's conclusions; however, no response was received by this office.

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|---------------------------|-----------------------|---------------------|
| <b>Licensing History:</b> | Registered Trainee    | 12/11/2001-5/6/2004 |
|                           | Licensed RE Appraiser | 5/7/2004-8/1/2006   |
|                           | Certified Residential | 10/15/2009-Present  |

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found numerous violations of USPAP when conducting the review. The violations ranged from omissions and commissions, mistakes and lack of research and confirmation of the data presented. There may be other possible violations that cannot be determined without a full interior inspection. Respondent has been a licensed appraiser for almost ten (10) years without prior disciplinary action. Due to the scope of the violations presented, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing and Case Studies and a fifteen (15) hour Advanced Residential Applications and Case Studies course to be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion that the respondent be required to complete a fifteen (15) hour Advanced Residential Applications and Case Studies course to be completed within one hundred eighty (180) days execution of the Consent Order. This was seconded by Mr. Walton. The motion carried unopposed.

## 7. 2013011481

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

Respondent sent a response to the complaint stating that as stated in his report, he used the most similar comparable properties within a 2 mile radius of the subject over the past twelve months, with no reason for an expanded search for additional properties outside of the subject's immediate market area. Respondent stated he believed the appraisal report delivered to his client is USPAP compliant and offers a credible opinion of market value based on the scope of work defined in the appraisal report.

### **REVEIWER CONCLUSIONS:**

- Site Value: An opinion of site value is provided in the cost approach. The report refers to recent land sales found in the area as support for the indicated value of \$24,000; however, no land sales are included in the appraisal report and no land sales are found in the appraiser's workfile submitted to the reviewer. Since an opinion of site value is, by definition, an appraisal, all applicable standards rules in Standard 1 and 2 are required of the appraiser. [SR 1-4, lines 560-561; SR 1-6(a); Record Keeping Rule, lines 299-301]
- The opinion of site value is an opinion of market value which requires an opinion of highest and best use. The content of a summary appraisal report must contain a summarization of the support and rationale for the appraiser's opinion of highest and best use; this is

included for the subject as-improved, but is not provided in the report for the subject as-vacant. [SR 1-3(b); SR 2-2(b)(ix)]

- Several assumptions are identified throughout the report as “extraordinary assumptions.” When using an extraordinary assumption, the appraiser must state that its use might have affected the assignment results. This statement is not found anywhere in the appraisal report. [SR 2-2(x), line 803]

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

Respondent sent a response to the reviewer’s conclusions stating that he was re-attaching the land sales that were in the original appraisal workfile. Respondent stated he was fairly certain that these were in his workfile copy that he had submitted to the appraisal commission. However, his workfiles are very large, and he apologized if it was not in the copied report. With regard to the highest and best use issue, Respondent stated that he had a couple of statements in the report regarding highest and best use. One is located in the URAR, itself, and the other is located in the attached supplemental addendum of the original report in the “highest and best use section”. The highest and best use “vacant” and “as improved” is stated in the original report as the current single family residential use because of the SFR zoning, legally conforming utilization, and the site lends itself to single family residential use both because of its size and topography, and compatibility with surrounding sites. Regarding the extraordinary assumption comments, Respondent stated there is a full section located within the original report. Respondent has attached the language that he refers to, along with his response.

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| <b>Licensing History:</b> | Registered Trainee    | 7/23/2002-10/18/2004 |
|                           | Certified Residential | 10/19/2004-Present   |

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the quality of Respondent’s work was overall good and acceptable; however, there were a few minor deficiencies in its compliance with USPAP as stated above. It was the reviewer’s opinion that the appraiser made obvious efforts to provide a meaningful and professional report, which only needs a few minor adjustments to be completely USPAP compliant. Respondent has been a certified residential appraiser for about nine (9) years, with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the minor violations noted above.

**Vote:** Mr. Hall made a motion dismiss the complaint matter. This was seconded by Mr. Walton. The motion carried unopposed.

### **8. 2013015451**

This complaint was filed by an Appraisal Management Company and alleged that an appraisal desk review of the Respondent’s appraisal report stated there were significant problems which affected the reliability of the report.

Respondent responded to the complaint, but only to send in a copy of his workfile and documentation requested by this office. Respondent did not directly respond to the specific allegations within the complaint.

### **REVIEWER’S CONCLUSIONS**

- The appraiser 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 subject property is located southwest of the subject city. The location map, provided in the appraisal report, shows the subject on the east side of the subject city, within the city limits. The report indicates that the subject neighborhood is rural, which is correct, but the map indicates the location to be suburban, which is incorrect. None of the

maps or neighborhood boundary descriptions is correct. [SR 1-1(c); SR 1-2(e); SR 2-2(b)(iii); SR 2-1(b)]

- The appraisal report does not have an opinion of exposure time. [SR 1-2(c), line 506; SR 2-2(b), lines 766-767]
- An opinion of site value is provided in the cost approach. The following statement is provided in support of the site value opinion: “The site value was obtained by comparable land sales within the area.” The appraisal report, dated February 10, 2012, did not include any land sales or specific support for the indicated site value. [SR 2-2(b)(viii); SR 1-4, lines 560-561; SR 1-6(a)]
- Substantial adjustments are made to each of the comparable properties for differences in contributory site value; however, none of these adjustments are summarized or supported either in the sales comparison comments of the report or in the workfile. Sale #4 is also adjusted a minus \$20,000 for location; there is no explanation for this adjustment or support for the amount. In addition, two of the four sales, used in the sales comparison approach, are located in another state, 18-23 miles away, with no explanation as to why the appraiser used out of state sales. [SR 1-2(h); Scope of Work Rule, line 431]
- An insufficient reconciliation is found in the sales comparison approach to value. There is insufficient explanation to explain how the appraiser arrived at the final value opinion of \$575,000 from the wide range of adjusted values indicated in the report. The only sales that support a value this high are the out of state sales. The sales in this state and closest in proximity to the subject support a much lower value range from \$426,000 to \$472,000. [SR 1-6(a); SR 2-2(b)(viii), lines 789-791]
- The appraiser made unsupported assumptions about market area trends. [SR 1-3(a), lines 554-555]
- There is no summary of the support and rationale for the opinion of highest and best use of the subject property. In addition, an opinion of site value is provided in the cost approach of the report but there is no opinion given for the highest and best use of the site as-vacant. [SR 1-3(b); 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, lines 877-879]

Respondent was given the opportunity to respond to the reviewer’s conclusions, but no response has been received by this office.

**Licensing History:** Certified Residential 9/1/2006-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found that the quality of the appraiser’s work to be deficient in its compliance with USPAP. The extent of non-compliance constitutes an appraisal report that is incomplete in its disclosure and analysis, careless and negligent in its due diligence, and lacking in information sufficient for intended users to understand. It is also of concern to the review appraiser that Respondent may have committed ethical violations with regard to changing reports for submission to TREAC. Since the report provided by the appraiser to TREAC includes supporting data not found in the report provided by the Complainant, it becomes questionable if the appraiser has subsequently added information to the report that was not actually found in the original report submitted to the client. This would be a violation of the Ethics Rule, lines 219-220 and 228. As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order a fifteen (15) hour Site Valuation and Cost Approach Course to be completed within one hundred eighty (180) days of execution of this Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Note:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The motion carried unopposed.

## 9. 2013017541

This complaint was filed by a citizen/attorney for the Complainant and alleged that the opinion of value is not supported in Respondent's appraisal. The complaint alleged that the predominant value that is listed in the appraisal report is extremely high for the area. The complaint also alleged that there is no analysis of the sales contract, and all of the sales far exceed the typical price paid for this type of property in the market. Complainant also alleged discrepancies with the cost approach, and alleged that the opinion of value is not supported.

Respondent sent a response to the complaint stating that she disagreed with the allegations. Respondent included a copy of the appraisal and a copy of the workfile in her response.

### **REVIEWER'S CONCLUSIONS**

- The one-unit housing and present land use percentage is inconsistent with market data found through the MLS system and based on visual observation of the surrounding communities. The neighborhood boundaries stated on page 1 are inconsistent with the location of the sales and listings used in the appraisal. The use of extended boundaries was not explained or discussed in the appraisal. The market conditions section does not contain any data, analysis or support for the opinion of one-unit housing trends. [SR 1-1(a)(b)(c); SR 1-2(e); SR 1-3(a); SR 1-4(a); SR 1-6(a); SR 2-1(a)(b); SR 2-2(b)(iii)(viii)]
- There is no analysis or discussion of highest and best use. The appraisal stated "URAR: Site Comments" "Minimal lake view due to the wooded areas." A visual analysis of the CRS/Bing 3D maps and the topographical map showed that there was no minimal or other associated view of the lake from where the subject is situated. The closest distance to the lake is 3420.25' from the subject property. [SR 1-2(e)(i); SR 1-3(a)(b); SR 2-1(a)(b)(iii)]
- Additional information needs to be provided detailing the quantity and quality of materials used throughout the dwelling, in order to provide an analysis for comparison between the subject and the comparable sales and support the quality rating used in the cost approach. [SR 1-2(e)]
- With regard to the sales comparison approach, the appraisal failed to make proper adjustments within some of the sales, and some were not supported by tax records. **Sale #1:** The MLS shows an expired listing as of 11/27/2009. The expired MLS sheet shows 2170 total square footage, but states a full finished basement. This is not supported by the tax records obtained by the CRS/Tax system. It shows a crawlspace and 3092 square feet of AGLA. There is no support for the Respondent's square footage. **Sale #4:** It is located in a lake frontage community and has a panoramic/superior lake view of the main channel with a southwest sunset view. It had several large deck areas and a crow's nest deck on top of the house. The appraisal did not adjust for the superior lake views or the multiple decks. **Listing #1:** The MLS data on square footage is not the same as shown in the appraisal when compared to the tax records. MLS shows 1085 square feet, and tax records show 1167 square feet. **Listing #2:** The appraisal data was slightly different than that shown in the tax records for the square footage. [SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(b)(vii)(viii)]
- The site value of the cost approach was not supported by the MLS listed comparable sales that were researched. None of the three lot sales used in the appraisal were comparable to the subject's non-lake view lot. [SR 1-1(a); SR 1-4(b); SR 1-6(a)(b); SR 2-2(b)(viii)]

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

Respondent sent a response to the reviewer's conclusions, addressing each bullet point above. With regard to bullet point #1, Respondent stated land use provided was for the neighborhood which encompasses the neighborhood development comprised of single family residential houses

and single family residential building lots. The market area is a broader area than the defined neighborhood that includes the subject neighborhood, as well as, other lake communities in the county. With regard to bullet #2, Respondent stated the subject is a house in a residential subdivision with paved roads and utilities in a place comprised of single family houses and single family building lots. Highest and best use would be single family residential use. At the time of inspection, the appraiser observed a minimal lake view from the upstairs window. The availability and quality of the lake view can vary greatly due to changing seasons and foliage. With regard to bullet #3, Respondent stated that in response to the quality/quantity of materials used to support cost approach figures, the appraiser noted by inspection and photos, the quality of materials used. The appraiser referenced in the report that cost/quality information is gathered from local contractors, Marshall and Swift, and the appraiser's knowledge of the area. The appraiser also noted information was also taken from several long-time realtors in the county. With regard to bullet #4, Respondent stated she felt the adjustments were proper and appropriate based on her inspection of the subject and information available on the comparable sales. With regard to bullet #5, Respondent stated that the selected sites, like the subject, appear to have at best a minimal seasonal lake view only, due to location within their respective developments. Respondent also stated in her response that as is the case with most appraisers and appraisals done in previous years, all appraisers tend to find areas that they have improved upon and hopefully do a better job with explanation and clarification in the future. Through continuing education with qualified instructors and discussion with peers, appraisers obtain knowledge and develop skills that help them become better appraisers.

**Licensing History:** Certified Residential 1/10/2002-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found numerous inconsistencies in reporting, omissions of specific information that affected the value of the comparable sales, misdirecting the value to an unsupported conclusion in both the sales comparison and cost approaches, etc. Based on the numerous omissions and commissions, in addition to the violations noted above, violations of the Ethics Rule and Competency Rules have also been violated. As such, Counsel recommends the authorization of a one thousand dollar (\$1,000) civil penalty to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion to close the matter with a letter of caution. This was seconded by Mr. Standifer. The motion carried by majority with Mr. Walton in opposition.

#### **10. 2013019811, 2013020051**

These two complaints were filed against the same Respondent Appraisal Management Company. The first complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission for failure to maintain a valid surety bond, after receiving notice of a cancellation of Respondent's surety bond. The second complaint was filed by an appraiser and alleged that Respondent did not pay appraisal fees for services rendered within the requisite sixty (60) days and that emails to Respondent, as of late, have not been responded to.

Respondent has not submitted a response to the first complaint, regarding the surety bond that was cancelled, effective 9/26/2013. The certified mail that was sent from this office was returned marked "Not Deliverable". When staff called Respondent's number, the operator answered with a different company name and informed staff that Respondent was leasing this office, and it is no longer at this location. Staff also called Respondent owner and left a message. Staff did receive email correspondence from an individual associated with Respondent, who stated he was passing the information from staff along to the President of the company. However, no response was received. No valid surety bond was ever received after this communication.

With regard to the second complaint, concerning Respondent's failure to make payment within sixty (60) days, Respondent controlling person sent a response stating that he had resigned, as of October 17, 2013, and he asked if staff could please remove him as the contact and compliance officer for this Respondent AMC. Respondent controlling person stated that his resignation was due to the extreme lack of payment from the AMC and President. The controlling person chose not to be associated with the Respondent AMC any longer. The President of Respondent AMC sent written correspondence stating that the Complainant's accusation in non-payment for a property completed through Respondent company is unknown. Any reports completed have been paid in full. Respondent stated that if this company was not paid for any service completed the appraisal company did not follow Respondent's engagement letter that is provided on all appraisal requests. Respondent President stated that at no time was Respondent not fulfilling its obligations to any appraiser.

**Licensing History:** Registered AMC 8/21/2012-8/20/2014

**Disciplinary History:** None.

**Reasoning and Recommendation:** Since Respondent no longer has a valid surety bond with the State as required by the laws and rules of the Tennessee Real Estate Appraiser Commission, and since Respondent did not respond to the state's attempts to contact Respondent regarding the bond, Counsel recommends the authorization of a voluntary revocation of Respondent's certification to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Standifer made a motion to accept counsel's recommendation. This was seconded by Dr. Baryla. The motion carried unopposed.

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Having no further business, Mr. Johnstone adjourned the meeting at 3:00 p.m.