



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

**April 13<sup>th</sup>, 2015**  
**Minutes**  
**First Floor Conference Room (1-B)**  
**Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on April 13<sup>th</sup>, 2015, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Johnstone called the meeting to order at 10:08 a.m. and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Timothy Walton  
Norman Hall  
Gary Standifer  
Eric Collinsworth

**COMMISSION MEMBERS ABSENT**

Nancy Point  
Rosemary Johnson

**COMMISSION MEMBERS PRESENT BY TELECONFERENCE**

Mark Johnstone  
Randall Thomas  
Dr. Mackara

**STAFF MEMBERS PRESENT**

Nikole Avers, Keeling Gamber, Jennaca Smith, Dennis O'Brien

Chairman Johnstone read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on March 10<sup>th</sup>, 2015.

**STATEMENT OF NECESSITY**

The statement of necessity was read into the record by Ms. Gamber since some of the board members attended by teleconference.

**ADOPT AGENDA**

Mr. Hall made a motion to adopt the agenda. It was seconded by Mr. Walton. The motion carried unanimously by a roll call vote.

**MINUTES**

The March 9<sup>th</sup>, 2015 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Mr. Thomas. The motion carried unanimously by a roll call vote.

**REPORT OF EXPERIENCE INTERVIEWS**

No experience interviews were conducted.

**MARCH 2015 - EDUCATION COMMITTEE REPORT**

Dr. Mackara read his recommendations into the record as below:

Course Provider	Course Number	Course Name	Instructor(s)	Hours	Type	Recommendation
McKissock	1843	Marcellus Shale: Effects of Energy Resource Operations	D. Bradley	3	CE	Approved
McKissock	1844	Appraisal Review for Commercial Appraisers	P. Lorenzen	7	CE	Approve
McKissock	1845	The New FHA Handbook 4000.1	A. Brown, C. Huntoon, D. Bradley, J. Smithmyer, L. McMillen, S. Vehmeier, T. Martin, W. Czekalski, S. Maher	7	CE	Approve
Appraisal Institute	1846	TN Supervisory Appraiser / Trainee Appraiser Course	J. Atwood	7	CE	Approve
Allterra Group, LLC	1847	2015 Keynote/The Vision for Valuation	J. Rosner, R. Murphy, G. Kifer, R. Frazier, R. Langdon, E. Pinto, E. Durbin, L. Coyle	7	CE	Approve
Allterra Group, LLC	1848	2015 Regulatory Update/Best Practices	R. Parson, J. Park, A. Romano, B. Shea, P. Chandler, T. Allen, J. Yurek, W. Fincham	7	CE	Approve

### Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Joyce Deason (CR 1279)	Appraisal Institute	ON-LINE FHA and the Appraisal Process	7	CE	Approve
Kenneth Calabro (CR 3473)	Columbia Institute	Residential Appraisal Issues	7	CE	Approve
Wesley Slater (CG 4098)	Appraisal Institute – NC Chapter	Evaluation Appraisal Seminar	7	CE	Approve

**Vote:** Mr. Walton made a motion to accept the recommendations. This was seconded by Mr. Standifer. The motion carried unanimously by a roll call vote.

### DIRECTOR'S REPORT

Director Avers presented a summary of the current appraiser commission budget, licensing numbers and complaint status.

### LEGISLATIVE UPDATE

There were no legislative updates to report.

### LEGAL REPORT

#### 1. 2014032151

This complaint was referred from the Tennessee Department of Financial Institutions from a consumer alleging that Respondent was grossly negligent in appraising his apartment complex. Complainant stated that if the appraisal had been appraised at or above the county assessment, the loan would have been at less than 70% of value. Complainant stated that with his other properties the loan is about 40% of appraised values.

Respondent sent a very lengthy response to the complaint, contending that there is no factual evidence of any kind that would suggest wrongdoing, malpractice, collusion, or any other unprofessional or unethical act by Respondent, his firm, or his client. Respondent stated he takes all the allegations very seriously and hopes that the Commission understands the severity of the charges against him. Respondent feels this complaint is based solely on ill-harbored feelings surrounding additional collateral requested by the client (bank). Proper verification of comparable properties was completed and a complete analysis was performed. Respondent stated a complete valuation has been performed with an unbiased value conclusion.

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

- Intended Use: While the purpose of the appraisal is “*to provide an opinion of market value,*” the intended use should identify why the appraisal is needed (financing, underwriting, portfolio valuation, etc.) and what the value issues are. The appraiser does not expand on the reasons why the appraisal is needed other than for “*determination of market value*”. [SR 2-1(b)]
- Contract/Sales/Listing History: The appraiser describes the sales history of the subject property on page 12 of the appraisal. However, the appraiser does not address the listing history or current listing status of the subject property. [SR 2-2(a)(viii)]
- Property Rights Appraised: The appraiser has identified the property rights appraised as “Fee Simple”. The market value of the fee simple estate interest assumes that the property has no leases or tenants and could be leased at the prevailing market rate. Typically, a leased property, even with rent that is consistent with market rent, is appraised as a leased fee interest, not as a fee simple interest. The subject property is appraised “as-is” and is assumed to be “stabilized” which implies leases are in place and the property is occupied. Clarification should be made as to why the property rights valued are “fee simple” and not “leased fee”. [SR 1-2(e)(ii)]
- Comparisons are made with stabilized, leased fee comparables in the Sales Comparison Approach; however, property rights are described for “fee simple” comparables. Market standards are not specifically identified in the report and it is unclear what expenses are reported at market and what expenses are reported for the subject property specifically. [SR 2-1(b)]
- While contract rents are supported at market, expense data reported for the subject is “toward the upper end of the market for similar properties”. This is attributed to “*elevated insurance expenses*” and “*small size*”. While research supports this analysis, no explanation is provided for the elevated insurance expense and whether the expense will be higher over the life of the asset. [SR 2-1(b)]
- A fee simple value would normalize expense data for the subject at market which may have an impact on the final value determined. [SR 2-1(a)]
- Identify Extent to Which Property is Inspected: The appraiser reports that the site was “physically inspected” on August 20, 2014; however, the extent to which the property is inspected is not detailed. [Scope of Work Rule (Line 397)] This typically includes a description of the type of inspection, the areas inspected, the number of units inspected, etc.
- Site: On page 26, the appraiser describes the total tax assessment as to total tax appraisal. [SR 1-1(a); SR 1-1(b); SR 1-4(a)]
- Improvements: Actual age is described in the summary on Page 27 as 39 years. This is inconsistent with the statement that the buildings were constructed in 1975 and in 2013, although it is evident through the narrative that this is the case. [SR 1-1(a); SR 1-1(b); SR 1-4(a)]
- Sales Comparison Approach: The appraiser selects 5 comparable sales for use in the appraisal that ranged in size from 4,620 square feet to 18, 152 of “net building site”. It is unclear whether this is gross or rentable building area. The descriptions used on the individual comparable data sheets are referenced as gross. Comparisons are made to the subject’s rental area. [SR 1-1(c); SR 2-1(a); SR 1-4(a)]
- There is no analysis of how market conditions may have changed in the time period between the sales dates of the comparables and the effective date of the appraisal. [SR 1-1(a); SR 1-1(b); SR 1-4(a); SR 2-1(a)]
- With regard to Sale #4, the appraiser references one tax parcel in the sale with 0.22 acres. Research reflects the sale included two parcels with a total of 0.33 acres. [SR 1-1(a); SR 1-1(b); SR 1-4(a)]
- Time and location aspects of the sales comparables should be described and analyzed in more detail. [SR 2-1(b)]
- No detailed explanation is provided for adjustments made in the market data grid, other than a general reference to adjustment techniques in the last paragraph on page 45. [SR 2-1(b); SR 2-2(a)(viii)]
- A second method used in the Sales Comparison Approach by the appraiser is the NOI per Unit method. Use of this method understates the value of the subject property. [SR 1-1(a); SR 1-4(a); SR 2-1(a)]
- The NOI per Unit Method is mathematically the same as direct capitalization, which does not provide objective support for value, rather it duplicates the method. [SR 2-1(a)]

- Income Approach: The appraiser considered market rental rates for comparable properties in the subject neighborhood to test for reasonableness of the contract rent provided. Interviews were conducted and referenced, although no details were provided regarding the comparable properties and data sources. The appraiser appears to overstate the range of rents found from \$400 to \$575 vs. \$400 to \$530 reported in the survey on page 50. Contract rent is used to value the subject in the income approach. [SR 1-1(c); SR 2-1(a); SR 2-1(b); SR 1-4(c)(i)]
- No discussion of market typical or actual lease type, quantity of terms is provided by the appraiser for the subject or for comparable properties in the subject market. [SR 1-4(d)]

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

- With regard to intended use, Respondent stated that on page I, it is stated, "The intended use of this report is for mortgage financing and may not be used for any other function." Furthermore, it is stated in the engagement letter located in the addendum section of the report.
- With regard to the contract/sales history, Respondent stated the listing history and current status of listing was researched and no history or current listing information was identified; therefore, the subject property did not have any listing history or status to report.
- With regard to property rights appraised, Respondent stated the source for property interests appraised comes from the class "Apartment Appraisal-Concepts and Applications". In the case of the subject property, the facility is subject to several short term leases as verbally conveyed by the owner; however, the appraisal of the subject property is an appraisal of the fee simple estate due to the nature of the lease agreements and supported by a market rent analysis.
- With regard to elevated insurance expenses, Respondent stated while the reviewer understands elevated expenses are attributed to elevated insurance expenses and small size, additional explanation is requested. As noted in the appraisal, the 50% of the subject property improvements was consumed by a fire in 2012. Furthermore, the development is small in physical size and also located in a small market area, indicating the potential for costs savings, due to economies of scale. Nothing in Respondent's research suggested that expenses should decrease over a typical holding period.
- With regard to the extent to which the property was inspected, Respondent stated, "Physical vacancy was also reported verbally. The appraiser was unable to determine if true vacancy was correct, as disturbing all occupants was not feasible on the day of inspection." Respondent agrees an extraordinary assumption should have been made stating, "100% of the units were not inspected, and it is estimated that the sample observed is a true representation of the condition of the subject property as a whole."
- With regard to site, Respondent stated this assertion is admitted as a mistake that has been corrected for future assignments.
- With regard to improvements, Respondent stated that it is true that actual age is described in the summary as 39 years. However, the paragraph directly above the summary page sufficiently describes the age of the property in a clear and conspicuous manner: "The buildings, constructed in 1975 and 2013, contain a total of 14,508 square feet. The improvements would be described as being in average condition for their historical age."
- With regard to sales comparison approach, Respondent stated it is believed all comparable properties contain similar gross and net rentable building areas due to the type of properties analyzed. There are not significant common areas included in properties similar to the subject and comparables that would create substantial differences in gross and net rentable area. All comparables appear to be accessed via separate exterior entrances. Note taken, future data sheets will specifically indicate whether gross or net rentable area is used as an indicator of value. The subject property was valued on net rentable area as stated by the reviewer.
- With regard to market conditions, Respondent stated a statement was made that; "The sales chosen are similar in age and condition as compared to the subject property and are considered to be reasonably similar from an economic standpoint as compared to the subject property". The appraiser did not discuss an adjustment for economic differences as no adjustments were applied because they were considered similar. The subject's market has been slow to rebound like most other smaller markets and the overall economic conditions as compared to the sales are considered similar at the time of transfer.

- With regard to sale #4 tax parcel reference, Respondent stated this assertion is admitted. The comparable sale was improperly identified in the appraisal. The database entry Record #120 has been corrected to ensure this sale is presented in an accurate manner for future use.
- With regard to the sales comparison adjustment process, Respondent stated three of the five comparable sales are adjusted in the provided grid. A summary paragraph summarizing the adjustments made follows the adjustment grid. A critical, detailed reasoning is not provided for this summary format appraisal.
- With regard to the NOI analysis, Respondent stated the subject property was valued by the Sales Comparison Approach utilizing two acceptable Techniques including the Quantitative Analysis and the NOI Analysis. The reviewer asserts that the NOI Analysis understates the value of the subject property; however, all weight is not placed on the NOI Analysis the final reconciliation of Sales Comparison Approach values. Both analyses contribute weight in the final reconciled conclusions. It should also be noted that it is the reviewer's opinion that the NOI analysis understates the value of the property. Reasonable minds could differ in applying weight to each acceptable technique in the reconciliation. The NOI analysis is considered an acceptable method in valuing real estate on a per unit of measurement basis. This topic has been addressed in several classes offered by the Appraisal Institute that are inconclusive as to whether or not to perform this type of income analysis in the Sales Comparison.
- With regard to NOI duplicates direct capitalization, Respondent states the reviewer asserts that the NOI analysis performed in the Sales Comparison Approach offers no additional support; however, the value conclusion arrived at in the Sales Comparison Approach on a per unit basis differs from the value conclusion found in the Income Capitalization Approach. The reason for this difference in final value is that the NOI analysis takes into account the relationship of net income collected to sales prices of comparable properties in the market. The NOI analysis provides an adjusted range per unit between \$23,000 and \$29,532 with a mean value of \$26,420 per unit, which indicates a property value of \$432,000. The Direct Capitalization technique indicates a property value of \$456,584. This is evidence that the two techniques do not mirror each other and in fact provide additional support to the final value conclusion.
- With regard to the income approach, Respondent states the prevailing rent range from the market did not include the subject property rent-range. The subject property (as provided by the rent roll) offers a range from \$525 to \$650 with four tenants paying \$575 but most paying \$550 (7 tenants). The reliability of the market information provided was taken into consideration in forming the final market opinion. The actual rent collected for the subject property was also given strong consideration in forming the final opinion. The conclusion of market rent of \$550 is considered a reasonable fair market capture for the subject property, as this level of rent is was actually being collected at the time of reporting.
- With regard to discussion of actual lease type, Respondent stated several attempts were made in requesting signed lease agreements, disclosure of tenure of tenants, historical rents, economic loss due to nonpayment etc. Requests made include: current rent roll, YTD Profit/Loss Statement; Previous 3 years Profit/Loss Statements. These requests were denied by the property owner. None of the information was provided other than a handwritten rent roll with a brief summary of the property expenses. Conclusions were formed with considerations given to the limited amount of information provided, coupled with available market data. The appraisal conclusions are reasonable.

<b>Licensing History:</b>	Registered Trainee	9/27/1999-2/6/2002
	Certified Residential	2/7/2002-12/26/2007
	Certified General	12/27/2007-Present

**Disciplinary History:** (200419171-Dismissed)

**Reasoning and Recommendation:** The reviewer found that the appraisal lacks analysis and detail. A more detailed explanation and analysis of the data would mitigate contention and provide a better support of the value opinion. Notwithstanding the issues above, the comparable sales used appear to be reasonably similar to the subject in overall marketability. The Respondent appears to be diligent in his efforts to verify the data used in the analysis. However, this appraisal report cannot be deemed accurate, adequate, and reasonable until the deficiencies listed are addressed. 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 and sixty (60) hours in course(s) on General Appraiser Income Approach to be satisfied within one hundred eighty (180) days of execution of the Consent Order. Such terms to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Hall made a motion to dismiss the case. This was seconded by Dr. Mackara. Mr. Collinsworth recued himself from the vote, which carried unanimously by roll call.

## **2. 201500341**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by using incorrect comparable sales data. The complaint alleges that Respondent did not diligently research homes that are similar to the subject property, which negligently resulted in an extremely low appraisal value. The complaint alleges that Respondent's lack of professionalism and quality of work has caused undue stress on Complainant's family and resulted in them not closing (purchasing) the home on the scheduled closing date.

Respondent sent a response to the complaint, including a copy of the original appraisal report, as well as the complete appraisal file with all verification notes, research, comparables used and comparables that were discounted. Respondent also included the land sales that were used to extract the price per acre in order to calculate current site value. Respondent stated the cost approach was not required or developed and is not considered to be indicative of current values as replacement costs are typically higher than when the subject was originally constructed. Respondent stated there were many properties reviewed for comparison, and due to market conditions, which were well documented throughout the report, Respondent felt they were the best comparables available.

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

The reviewer found the appraisal under review to be complete. A review of the appraisal report did not reflect any apparent violations of USPAP.

**Licensing History:** Certified Residential 7/28/2010-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The motion carried unanimously by a roll call vote.

## **3. 2014030471, 2014030481**

This complaint was filed by the Executive Director of the Tennessee Real Estate Appraiser Commission, as a result of an experience audit of trainee reports. This complaint is made against the supervisor and trainee for failing to comply with USPAP.

Respondent sent a very lengthy response to the complaint. All of the issues within the response are addressed in the Respondent's response to the reviewer's conclusions.

The reviewer was responsible for conducting a review on three separate residential properties. The reviewer's conclusions are as follows:

### **Property #1**

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

- Unsupported and Unexplained Adjustments in the Sales Comparison Approach: Sales concessions are noted in the appraisal report for Sale 2, but no adjustment is made. The explanation given is, "closing costs were not adjusted because they are typical and appear to have had no impact on sale price." This statement is not supported in the report or in the workfile. No

adjustment is an adjustment that must be supported by the market with supporting documentation provided in the report and in the workfile. This was not done. [SR 1-4, SR 2-2 (a) (v), 2-1 (b)]

- An arbitrary site adjustment of \$4,000 is made to Sale 3; there is no explanation or support in the report or in the workfile, for the amount of the adjustment. [SR 1-4, 2-1 (b)]
- Market Analysis: None of the market analysis trend conclusions are explained or supported, either in the report or in the workfile. A market exposure time of 4-12 months is indicated; there is no data or additional explanations in the report or workfile that support this conclusion. A reason should be provided to support why normal marketing time is 3-6 months, but exposure time for the subject may take up to a year. [SR 1-3 (a) line 576-577, SR 2-2 (a) (viii)]
- Cost Approach: The cost approach results do not reconcile with the sales comparison results and no attempt has been made to explain the significant difference in the two conclusions. Additional analysis needs to be performed on the cost approach to verify the site value, cost estimates, or the amount of depreciation; possible functional or external obsolescence should be considered. [SR 1-4 (b), SR 1-6 (a), SR 2-2 (a) (viii)]
- Reconciliation: Reconciliation comments are not meaningful. Sale 3 is located over 10 miles from the subject; there is no explanation as to why a sale had to be sought this far away and if there are any locational differences that should be addressed and possibly adjusted for. A generalized statement is made in the reconciliation that positives and negatives of each sale were considered, but no positive or negative are specified in the report. There is no reasoning or support given for the final value conclusion. None of the three sale indicators support a value of \$62,000. [SR 2-2 (a) (viii)]
- The signed certification page is confusing and misleading because it is confusing to state in one place that no one provided assistance and then later indicate that someone (the trainee) did. In addition, when someone provides significant assistance with the appraisal, the appraiser must summarize the extent of that assistance. The only indication of assistance found in the report is that (TRAINEE) assisted in the development and completion of the appraisal report. This statement does not provide the client and users with information to allow them to understand the extent of the assistance. [2-1 (b), 2-2 (a) (vii)]

## **Property #2**

- Sales concessions are noted in the appraisal report for all of the comparable sales, but no adjustments are made. The explanation given is, “the closing cost is typical for sales of new constructions in the area; therefore, no adjustments were made.” This statement is a misunderstanding of the definition of market value and accompanying explanations that are built into the appraisal form utilized by the appraiser for this assignment. No attempt is made by the appraiser to provide market support that sales concessions adjustments are not required. [SR 1-4, SR 2-2 (a) (v), 2-1 (b)]
- Arbitrary adjustments are made to sale 3 for site and quality with no explanations and no support found in the workfile. [SR 1-4, 2-1 (b)]
- A statement is made in the comments referring to an age adjustment, but no age adjustment is made; all sales are new homes similar to the subject. [2-1 (b)]
- The content of the appraisal report does not contain a summarization of the support and rationale for the appraiser’s opinion of highest and best use. [2-2 (a) (x)]
- The appraiser used a hypothetical condition by appraising the property subject to completion per plans and specifications; however, the appraiser did not state that the use of this condition might have affected the assignment results. [2-2 (a) (xi)]
- The signed certification page is confusing and misleading because it is confusing to state in one place that no one provided assistance and then later indicate that someone (the trainee) did. In addition, when someone provides significant assistance with the appraisal, the appraiser must summarize the extent of that assistance. The only indication of assistance found in the report is that (TRAINEE) assisted in the development and completion of the appraisal report. This statement does not provide the client and users with information to allow them to understand the extent of the assistance. [2-1 (b), 2-2 (a) (vii)]

## **Property #3**

- A site value of \$150,000 is indicated in the cost approach of the report. Four MLS sales are referenced as providing support for this opinion; these sales range from 5 acres to 25 acres with a sale price range from \$50,000 to \$200,000 and a price per acre from \$7,900 to \$13,000. There is no analysis of these sales provided in the report or in the workfile and no reconciliation to support the reasoning and rationale for developing the opinion of value for the subject site of \$150,000. [SR 1-4 (b), SR 2-2 (a) (viii)]
- Sales concessions are noted in the appraisal report for sale 1, but no adjustment is made. The explanation given is, “closing costs were not adjusted because it appears to have had no effect on sales price.” This statement is not supported in the report or in the workfile. No adjustment is an adjustment that must be supported by the market with supporting documentation provided in the report and in the workfile. This was not done. [SR 1-4, SR 2-2 (a) (v), 2-1 (b) Record Keeping Rule, line 321-323]
- An arbitrary site adjustment of \$50,000 is made to sales 1-2; there is no explanation or support, in the report or in the workfile, for the amount of the adjustment. [SR 1-4, , 2-1 (b) Record Keeping Rule, line 321-323]
- All other adjustments are unsupported in the report and workfile. [SR 1-4, 2-1 (b), Record Keeping Rule, line 321-323]
- None of the market trends are explained or supported, either in the report or in the workfile. A market exposure time of 4-12 months is indicated; there is no data or additional explanations in the report or workfile that support this conclusion. Without such explanation, this opinion is not meaningful and potentially misleading. [SR 1-3 (a) line 576-577), 2-1 (b) Record Keeping Rule, line 321-323]
- Reconciliation comments are confusing and too general. Sale 1 is said to carry the most weight but without further explanation. This sale has the highest net adjustment percentage and is substantially smaller than the subject in acreage and GLA. The appraiser refers to condition and age adjustments, but no such adjustments are actually made to any of the comparable sales. [SR 2-2 (a) (viii)]
- The content of the appraisal report does not contain a summarization of the support and rationale for the appraiser’s opinion of highest and best use. [2-2 (a) (x)]
- The signed certification page is confusing and misleading because it is confusing to state in one place that no one provided assistance and then later indicate that someone (the trainee) did. In addition, when someone provides significant assistance with the appraisal, the appraiser must summarize the extent of that assistance. The only indication of assistance found in the report is that (TRAINEE) assisted in the development and completion of the appraisal report. This statement does not provide the client and users with information to allow them to understand the extent of the assistance. [2-1 (b), 2-2 (a) (vii)]

**Overall Response to Reviewer’s Conclusions for All Three Properties;**

- In regard to the concerns on market trends and adjustments and supporting data for these trends, Respondent feels that these are derived over time. It simply would not be feasible to outline and document all the information for each adjustment and market characteristic in every individual workfile. However, each adjustment is extracted from the local market using acceptable techniques such as paired sales and allocation.
- In regard to site valuation and site adjustments, the site value is derived from ranking closed sales similar to the subject in the same market area qualitatively in relation to the subject. This process takes into account many factors regarding the vacant land; such as: location, utility, size, access, and other pertinent features. Furthermore, the same analysis is used to determine individual site adjustments among the comparable sales.
- In regard to the certification page being confusing, it has been Respondent’s understanding from previous classes that this was the proper way and place to report significant appraisal assistance. The shortness of the description was in no way intended to mislead the client, and was meant to explain the trainee was involved, under supervision, in all parts of developing and completing the report.
- Respondent stated this process has brought to her attention that some of the comments regarding her analysis and what techniques were used are too general and need to be laid out in greater



detail. Steps are being taken to present the information in greater detail and for comments to sufficiently explain what methods and techniques are being used. However, Respondent feels that the results are credible and that no information was presented in a way that would intentionally mislead the client.

### **Licensing History:**

<b>Supervisor:</b>	Certified Residential	9/18/1991-Present
<b>Trainee:</b>	Registered Trainee	12/14/2010-12/31/2014 Expired

### **Disciplinary History:**

<b>Supervisor:</b>	(200002735-Dismissed)
<b>Trainee:</b>	None.

**Reasoning and Recommendation:** The reviewer found that the appraisal lacks a summary of the analysis and reconciliation. A more detailed explanation of support for adjustments and analysis of the data would mitigate contention and provide a better support of the value opinion. All of the reports failed to properly summarize the contribution of the assistance of the trainee. 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 for the **supervisor**; and **both the supervisor and trainee** be required by consent order to attend a seven (7) hour supervisor – trainee course and a fifteen (15) Residential Report Writing and Case Studies course to be satisfied within one hundred eighty (180) days of execution of the Consent Order, such terms to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Collinworth made a motion that the supervisor and trainee undertake only the education per counsel's recommendation, with no civil penalty. This was seconded by Mr. Walton. The motion carried by a roll call vote, with Mr. Hall and Mr. Johnstone in opposition.

### **4. 2014029511, 2014029591**

This complaint was filed by the Executive Director of the Tennessee Real Estate Appraiser Commission as the result of experience audits of trainee reports. This complaint is made against the supervisor and trainee for failing to comply with USPAP. Significant competency issues and reporting issues were noted. Residential reports with effective dates in 2014 were completed on 1993 Fannie Mae forms for uses other than mortgage lending. Intended use and users were never clearly identified in the report. Approaches to value were not reconciled, and there was no support for the site value opinion. Many unusual adjustments were made with no comments. The use of superior quality comparables with no comments or adjustments were also indicated from photos in the appraisal report. There was no reconciliation for location of in town versus rural properties. Certifications were inappropriate and referenced either 1999 or 2005 USPAP and departure rule for appraisals complete in 2014. The report failed to include the trainee's significant appraisal assistance and the 3 year service certification. The reports also did not report the scope of work performed by the trainee.

In addition to the above, this trainee has submitted multiple reports for experience review, all of which have been rejected. Appraisals were submitted by the trainee for experience review 6/17/13, additional report were requested 7/2/13, additional reports were requested 9/20/13, reports submitted for interview 11/17/14 were rejected for experience hours and in this complaint was opened in order to have the matter reviewed by an independent reviewer for USPAP compliance.

### **Property #1**

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

- Highest and best use was stated, but there was no analysis reported or found in the workfile. [SR 1-3(b)(Lines 578-580); SR 2-2(a)(x)(Lines 743-744)]
- Land value is stated, however, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not

summarized in the report. Some land comparables were found in the appraiser's workfile, but no analysis was found. [SR 2(a)(viii)(Lines 726-727); SR 1-4(b)(i)(Line 587)]

- The appraiser stated the adjustment amounts for most of the line-item adjustments, however, no evidence or logic for any of the adjustments were given. While many of the adjustments cannot be extracted from the market, the appraiser's evidence and logic should be discussed, i.e. communicate the appraiser's reasoning to the intended user. [SR 2-1(b)(Lines 652-653); SR 2-2(a)(viii)(Lines 726-734); Scope of Work Rule (Lines 402-403)]
- Market rent was stated, but no data or analysis was found in the report or workfile. [SR 1-4(Lines 582-583); SR 2-2(a)(viii)(Lines 726-728)]
- Multiplier was stated, but no data or analysis was found in the report or workfile. [SR 1-4(Lines 582-583); SR 2-2(a)(viii)(Lines 726-728)]
- No reconciliation of the approaches to value were reported. None was found in the workfile, indicating that it was not performed. [SR 2(a)(viii)(Lines 732-734); SR 1-6(a)&(b)(Lines 635-640)]
- The extent of the trainee's assistance was not described in the report. [SR 2-2(a)(vii)(Lines 722-723)]
- While a previous service statement was made in the report, it was not in the certification. The name of the trainee as providing assistance in the appraisal was not listed in the certification. In fact, the certification states that no one assisted in the appraisal. [SR 2-3(Lines 819-820); SR 2-2(a)(vii)(Lines 723-725)]

### **Property #2**

- The intended use of the report is not stated. [SR 1-2(b)(Line 194); SR 2-2(b)(ii)(Line 742)]
- Highest and best use is not summarized in the report or found in the workfile. SR 1-3(b)(Lines 556-558); SR 2-2(b)(ix)(Lines 799-800)]
- The direct comparison approach addressed land size, view, and location. It did not consider utilities, zoning, topography, road access, or timber. Many of these factors may not require an adjustment, but they were not discussed. [SR 1-4(Lines 560-561)]
- No previous service statement. The name of the trainee was not listed in the certification as performing professional assistance. [SR 2-3(Lines 87-88); SR 2-2(b)(vii)(Lines 779-781)]
- The report did not summarize the extent of the trainee's assistance. [SR 2-2(b)(vii)(Lines 778-779)]

### **Property #3**

- The neighborhood stated boundaries represent most all of the subject county (about 266 square miles). There would be many neighborhoods in the area described. [SR 1-1(c)(Lines 507-509)]
- The report states that there were no sales of subject property in the past three years. However, the tax card from the appraiser's workfile shows a sale on 5/23/14 for \$63,151. SR 1-5(b)(Lines 631-632); SR 2-2(a)(viii)(Lines 735-737)]
- Highest and best use was stated, but no analysis was reported of found in the workfile. SR 1-3(b)(Lines 578-580); SR 2-2(a)(x)(Lines 743-744)]
- Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized in the report. Some land comps were found in the appraiser's workfile, but no analysis was found. [SR 2(a)(viii)(Lines 726-727); SR 1-4(b)(i)(Line 587)]
- The appraiser stated the adjustment amounts for most of the line-item adjustments, however, no evidence or logic for any of the adjustments were given. While many of the adjustments cannot be extracted from the market, the appraiser's evidence and logic should be discussed, i.e. communicate the appraiser's reasoning to the intended user. [SR 2-1(b)(Lines 652-653); SR 2-2(a)(viii)(Lines 726-734); Scope of Work Rule (Lines 402-403)]
- No reconciliation of the cost and sales comparison approaches was reported. None was found in the workfile, indicating that it was not performed. [SR 2(a)(viii)(Lines 732-734); SR 1-6(a) & (b)(Lines 635-640)]

- No explanation was reported for the omission of the income approach. [SR 2(a)(viii)(Lines 726-728)]
- The extent of the trainee’s assistance was not described in the report. [SR 2-2(a)(vii)(Lines 722-723)]
- While a previous service statement was made in the report, it was not in the certification. The name of the trainee as providing assistance in the appraisal was not listed in the certification. In fact, the certification states that no one assisted in the appraisal. [SR 2-3(Lines 819-820); SR 2-2(a)(vii)(Lines 723-725)]

**Licensing History:**

<b>Supervisor:</b>	Certified General	2/5/1992-Present
<b>Trainee:</b>	Registered Trainee	9/17/2009-Present

**Disciplinary History:**

<b>Supervisor:</b>	( <b>200002735</b> -Multiple violations of SR 1-1 and 2-1. Consent order required USPAP, Appraisal of Income Producing Properties, Highest and Best Use, Sales Comparison Techniques, Market Analysis, & experience log of reports; <b>200601830</b> -Closed with Consent Order with \$2,500 civil penalty – Violated the Competency Rule in the appraisal of a special purpose/use assignment)
<b>Trainee:</b>	None.

**Reasoning and Recommendation:** The reviewer found that the appraisals consistently fail to summarize methods and techniques applied. All of the reports failed to properly summarize the contribution of the assistance of the trainee. The **Supervisor** has been disciplined twice before for significant violations of competency, development and reporting standards. As such, Counsel recommends the authorization of a Consent Order for the suspension of the **supervisor’s** credential for a period of thirty (30) days; and **both the supervisor and trainee** be required by consent order to attend a seven (7) hour supervisor – trainee course and a fifteen (15) Residential Report Writing and Case Studies course to be satisfied within one hundred eighty (180) days of execution of the Consent Order, such terms to be settled by Consent Order or Formal Hearing.

**Vote:** Mr. Collinsworth made a motion to accept counsel’s recommendation. This was seconded by Mr. Walton. The motion carried unanimously by a roll call vote.

**5. 2014030681, 2014030691**

This complaint was filed by the executive director of the Tennessee Real Estate Appraiser Commission, as the result of experience audits of trainee reports. This complaint is made against the supervisor and the trainee for failing to comply with USPAP in reports selected for experience audit of a trainee under supervision.

**Property #1**

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

- Contract: There was no explanation provided as to the level or results of the analysis of the sales contract. The only comments provided were, “*Subject is a presale for \$269,580 dated 9/29/2014; however, and this appraisal is for construction loan purposes.*” It should also be noted that there was not a copy of the contract in the workfile to be reviewed. [SR 1-5(a); SR 2-2(a)(viii)]
- Neighborhood: There is insufficient information to identify the relevant physical and economic property characteristics. Under neighborhood boundaries in the report, it states, “*Please see attached location map for neighborhood boundaries and characteristics.*” The location map attached to the report does not provide this information. The vague comments in the neighborhood section along with the lack of defined neighborhood boundaries do not provide the reader with sufficient information to formulate a mental picture of the area or give the reader the

ability to have a full understanding of those neighborhood characteristics or factors that have an effect on the subject property. [SR 1-2(e)(i); SR 2-2(a)(iii)]

- Site: It was noted that the subject of this appraisal assignment is a proposed single family residence and the report does not provide the reader with any analysis or summary of those relevant factors. There is a lack of support and rationale provided for the highest and best use conclusion. A letter of response addressed to the Real Estate Appraiser Commission was provided in the documentation sent to the reviewer that noted, “*Regrettably, a summary of this analysis was not included in the report, except that the box was checked yes.*” It was also noted in that response letter that an analysis was provided. [SR 1-3(b); SR 2-2(a)(x)]
- Sales Comparison Approach: Sale #1 was verified through Public Record data and MLS. The report also notes this property sold 8/15/2014 for \$251,895. This property was listed on 8/1/2014 for \$251,480 and MLS shows this as the sales price. The difference between list and selling price was not discussed. According to data, there was \$7,000 associated with this sale in seller concessions that was not noted in the report nor was there an analysis provided as to any possible influence. The same is true for Sale #2 and Sale #3.  
An adjustment was made for the seller concessions on sale #3. Sales 1 and 2 both had seller concessions that were not reported or analyzed. Based on the actions taken on Sale #3 for seller concessions it would be reasonable to assume that a negative adjustment would have been made for these seller concessions mathematically reducing the value indications of these sales. Adjustments that were made to the sales were not discussed or analyzed in the report to indicate how these adjustments were derived. There was no evidence of analysis located in the workfile provided by Respondent that would offer support for the adjustments. [SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- Site Value/Cost Approach: A \$40,000 site value was noted in the cost approach section of the URAR report on page 3 of 6. The report notes in the site comment section of the cost approach, “*Site value per recent competing lot sales in subject neighborhood.*” No supporting information was found in the report or the workfile information provided, indicating that the opinion of site value was completed by an appropriate appraisal method or technique. [SR 1-4(b)(i); SR 2-2(a)(viii)]  
The report lacks the information and analysis necessary to understand the formulation of the cost figures used, as well as the final value conclusion. The reviewer found no supporting information that would allow the reviewer to recreate the cost approach. [Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-4(b)(ii)(iii); SR 2-2(a)(viii)]
- Reconciliation: There is a considerable difference between the sales comparison approach and cost approach indications. Therefore, it is not understood what is meant by the term “*confirmed*” in the statement, “*Sales comparison approach confirmed by cost approach.*” The reconciliation does not address or reconcile the quantity or quality of data analyzed in the approaches to value. Statements in the report indicate the sales comparison approach was given the most weight in the final opinion of value, but does not provide sufficient reporting and analysis to support opinions and conclusions. [SR 1-6(a)(b); SR 2-1(b); SR 2-2(a)(viii)]

## **Property #2**

- Neighborhood: In the neighborhood section of the report, the report states, “*Neighborhood bounded by Southern Avenue – south, East Parkway – east, Jackson Avenue – north, Interstate 240 – west.*” These boundaries seem broad. Usually the neighborhood boundaries would encompass the area surrounding the subject property to include those characteristics and influences that have an effect on the subject property. A neighborhood analysis/description requires further summary/communication to allow intended users to understand. The comments section should have included a discussion of the area factors that would affect the marketability of the properties in the neighborhood. [SR 1-2(e)(i); SR 2-1(b); SR 2-2(a)(iii)]
- Site: The zoning classification is correct but the zoning description was incorrect. The subject of this assignment is a multi-family (3 unit) residence. The report does not provide the reader with analysis or summary of those relevant factors affecting highest and best use decision. [SR 1-2(e)(i); SR 1-3(b); SR 2-2(a)(x)]
- Subject Rent Schedule: The comparable rental data placed in the report is unsupported and does not appear to have been properly collected and verified. There was no analysis provided as to the

size of units, number of bedrooms, or property type. The rental comparables were all noted to be in “good” condition with the subject being noted as being in “average” condition; however, no analysis or discussion has been provided. [Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-4(c)(i); SR 2-1(b); SR 2-2(a)(viii)]

- Sales Comparison Approach: In the response letter provided it was suggested that by comparing sale 1 to sale 2 a “matched pair” adjustment of \$6.11 per square foot would be indicated. The review appraiser could not mathematically recreate the \$6.11 indication in a correct manner. It appears the Respondent added and subtracted the adjustments made to the subject property, which would produce incorrect results. Adjustments were made to the sales but no discussion or analysis was provided in the report to indicate how these adjustments were derived. [Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- Site Value/Cost Approach: An \$18,000 site value was noted in the cost approach section of the SRIPAR report on page 4 of 7. No supporting information was found in the report or the workfile information provided, indicating that the opinion of site value was completed by an appropriate appraisal method or technique. [Competency Rule; SR 1-4(b)(i); SR 2-2(a)(viii)]
- Income Approach: The total gross rent was based on the information presented in the comparable rental data section of the report. The comparable rent data placed in the report is unsupported and does not appear to have been properly collected and verified. This lack of analysis reduces the reliability of the rental conclusion. An operating income statement was included in the report. The vacancy/rent loss rate was noted to be 5%, but no discussion or support was found in the report or workfile. Several expenses were noted in the report again without discussion or support. It was also noted that there was no expense for management. Whether or not a management company is used, it is reasonable to expect that there are management costs associated with maintaining an investment. [SR 1-1(a)(b)(c); SR 1-4(c)(ii)(iii)(iv); SR 2-2(a)(viii)]
- Reconciliation: The reconciliation does not address or reconcile the quality and quantity of data analyzed in the approaches to value. [SR 1-6(a)(b); SR 2-1(b); SR 2-2(a)(viii)]

### **Property #3**

- Neighborhood: The neighborhood boundaries are broad. Usually the neighborhood boundaries would encompass the area surrounding the subject property to include those characteristics and influences that have an effect on the subject property. A neighborhood analysis/description requires further summary/communication to allow intended users to understand. The comments section should have included a discussion of the area factors that would affect the marketability of the properties in the neighborhood. [SR 1-2(e)(i); SR 2-1(b); SR 2-2(a)(iii)]
- Site: The zoning classification is correct but the zoning description is incorrect. The property is considered to be legal nonconforming, not legal as stated in the report. While the property can be utilized as a 4 unit residence there are conditions. If the property is 75% damaged or if it becomes vacant for 365 days, it cannot be built back or used as a 4 unit residence. There was no discussion of the financial/economic conditions to meet the use of a 4 unit residence as vacant. [SR 1-2(e)(i); SR 1-3(b); SR 2-2(a)(x)]
- Subject Rent Schedule: Based on the information presented in the report the subject property is currently being utilized as a two unit property and there were no rents being collected. Using the information presented in the comparable rental section, the appraisers indicated that an opinion of market rent is \$1632 per month. The comparable rental data is unsupported and does not appear to have been properly collected and verified. Some of the information was not correct. [Competency Rule; Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-4(c)(i); SR 2-1(b); SR 2-2(a)(viii)]
- Sales Comparison Approach: Adequate reasoning has not been provided for the adjustments and sufficient analysis has not been provided to support opinions and conclusions. The conclusions are questionable and unsupported, based on the information provided. There is evidence that the appraiser has not adequately verified, reported, and analyzed the sales utilized, which reduces the credibility of this approach to value. [Competency Rule; Scope of Work Rule; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- Income Approach: The total gross rent was based on the information presented in the comparable rental data section of the report. The comparable rent data placed in the report is unsupported and does not appear to have been properly collected and verified. This lack of analysis reduces the

reliability of the rental conclusion. The vacancy/rent loss rate was noted to be 5%, but no discussion or support was found in the report or workfile. Several expenses were noted in the report again without discussion or support. It was also noted that there was no expense for management. Whether or not a management company is used, it is reasonable to expect that there are management costs associated with maintaining an investment. [SR 1-1(a)(b)(c); SR 1-4(c)(ii)(iii)(iv); SR 2-2(a)(viii)]

- The reconciliation does not address or reconcile the quality and quantity of data analyzed in the approaches to value. [Scope of Work Rule; SR 1-6(a)(b); SR 2-1(b); SR 2-2(a)(viii)]

## **Property #1**

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

- Contract: As the reviewer noted, we did provide commentary about the contract being a pre-sale. Contrary to the reviewer's observation, a copy of the contract was included in the workfile, on pages 6 through 31. The contract included drawings, a feature list, and cost figures. The price, date, and signatures were on page 29. As noted by the reviewer, our comments about the level and results of analysis of the contract could and should have been more detailed.
- Neighborhood: The reviewer is correct that the description of the neighborhood should have been more detailed. Going forward from the time of this complaint, our work process has included this and all changes needed to address the concerns raised.
- Site: The reviewer acknowledges that a detailed discussion of the site characteristics and highest and best use was provided in our initial response, though not in the original report.
- Sales Comparison Approach: On one specific comparable, the reviewer notes a discrepancy between the recorded sales price of \$251,895, as reported by Public and Private records data, which we used in our report, and the MLS reported sale price of \$251,480. The recorded sales price that we used originates from the Register of Deeds and is more reliable than the listing agent's manual data input.
- As noted in our initial response, seller concessions were inadvertently omitted from comparables 1 and 2, but were included in comparable 3.
- Regarding support for and commentary about adjustments, as noted in our initial response, the appraisal report enumerated the specific extras that were the basis for the positive condition adjustments on sales 1 -2. The negative condition adjustment on sale #3 was referenced in the comments, and was based upon sound reasoning, but should have been more thoroughly explained, as it was in our response letter.
- Site Value/Cost Approach: The summary comment in the appraisal report "Site value per recent competing lot sales in the subject neighborhood," referred to the 9 closed sales and 8 listings, which provided a sound and appropriate method for estimating the site value. These were provided in our response, but were not contained in the specific workfile.
- Cost figures were included in the workfile, specifically within the contract. The total of these costs divided out to \$55 per square foot. As noted in our initial response, a more typical builder-reported cost figure of \$60 was used in our cost approach. Use of the lower figure, which was attributable to the slightly larger 3,531 square foot plan, would have yielded a cost value result of \$271,480, which would have easily reconciled with the sales comparison result of \$270,000.
- Reconciliation: As noted by the reviewer, a more detailed reconciliation discussion should have been included. Again, these are work process changes we have made.

## **Property #2**

- Neighborhood: As noted by the reviewer, a more specific and detailed discussion of the neighborhood should have been included.
- Site: As noted by the reviewer, a detailed discussion of the permissible uses and highest and best use should have been included, as was provided in detail in our initial response.
- Subject Rent Schedule: The reviewer stated that the comparable rental data placed in the report was unsupported and does not appear to have been properly collected and verified. However, the data was collected through the normal avenues of MLS listings, public records, and conversations with owners and tenants. Often, the MLS published rents ended up being higher than actual rents

per the participants, and the actual rent was used. Our workfile should have included detailed notes of source information in these cases, and this is now our process going forward.

- The rentals for individual units and unit types were enumerated in the appraisal report. A detailed discussion of building and unit types was included in our initial response, and should have been more clearly spelled out in the appraisal report. As noted in our initial response, the location rating of the rental comparables should have been brought in to the calculation of market rent and that process was described in detail in our initial response.
- Sales Comparison. Approach: The reviewer was unable to recreate the matched pair for square footage described in our initial response, but it can be recreated using sales 1 and 2. Adjustments made "to the subject" were not part of the calculation.
- As noted by the reviewer, a more detailed discussion of adjustments and their derivation should have been included.
- Site Value/Cost Approach: The appraisal report provided a lot value estimate and explained that the allocation method was employed. This is an appropriate method for estimating land value in a developed area where land sales are rare. More detail about the method and its application should have been included in the report. A detailed description of the allocation method was included in our initial response.
- Income Approach: The reviewer stated that the comparable rental data placed in the report was unsupported and does not appear to have been properly collected and verified. However, the data was collected through the normal avenues of MLS listings, public records, and conversations with owners and tenants. Often, the MLS published rents ended up being higher than actual rents per the participants, and the actual rent was used. Our workfile should have included detailed notes of source information in these cases, and this is now our process going forward.
- The vacancy/rent loss estimate of 5% was based upon our observation of rental units in the area over time. A statement as to that observation should have been included.
- The Operating Income Statement includes numerous expenses, such as stoves, refrigerators, AC units, etc, the costs of which, as noted in the appraisal, are estimated by the appraiser.
- As noted in our initial response, the management fee was inadvertently omitted.
- Reconciliation: As noted by the reviewer, a more detailed reconciliation discussion should have been included.

### **Property #3**

- Neighborhood: As noted by the reviewer, a more specific and detailed discussion of the neighborhood should have been included.
- Site: As noted in the original response, the subject is a legal non-conforming use, and per the zoning office, would readily be granted a variance to re-build if destroyed, because it is completely surrounded by similar 4-unit properties. A detailed discussion of this issue was provided in our original response. As noted, this discussion should have been included in the original report, and as noted, the check box indicating legal nonconforming should have been checked.
- Subject Rent Schedule: The estimated subject market rent was properly estimated based upon the subject's highest and best use, and originally designed use, as a 4-unit property. The current owner, as noted in our original response, has made modifications for his personal use, and is collecting no rent.
- The market rental information was clear and consistent in the neighborhood, because there were similar 4-unit properties with ongoing rentals. It was properly collected and verified, through MLS, public records, and conversations with owners and tenants. However, the documentation in the workfile should have been more clearly notated. This is a change we have implemented in our work process.
- Sales Comparison Approach: Adjustments were explained in the report, and analyses were provided to support the opinions and conclusions. More detailed explanations were provided in our response letter. This was a complicated situation in which the owner had made some modifications that preventing him from collecting maximum rent, and other modifications that were considered upgrades. The reasoning and result of the analysis were sound, but more elaboration on the details could have provided better clarity.

- The sales used were accurately reported, verified, and analyzed.
- Income Approach: As noted above, the market rent information was clear and consistent, and was properly collected and verified through MLS, public records, and conversations with owners and tenants. However, the documentation in the workfile should have been more clearly notated.
- The vacancy/rent loss estimate of 5% was based upon our observation of rental units in the area over time. A statement as to that observation should have been included. The Operating Income Statement includes numerous expenses, such as stoves, refrigerators, AC units, etc, the costs of which, as noted in the appraisal, are estimated by the appraiser. As noted in our initial response, the management fee was inadvertently omitted.
- Reconciliation: As noted by the reviewer, a more detailed reconciliation discussion should have been included. Again, these are work process changes we have made.

**Licensing History:**

<b>Supervisor:</b>	Certified Residential	12/23/1991-Present
<b>Trainee:</b>	Registered Trainee	12/13/2006-Present

**Disciplinary History:**

<b>Supervisor:</b>	None.
<b>Trainee:</b>	None.

**Reasoning and Recommendation:** The reviewer found that the appraisal lacks a summary of the analysis, some consistent errors or omissions which the trainee and supervisor indicated they would improve upon and a need for improved reconciliation. A more detailed explanation of support for adjustments and analysis of the data would mitigate contention and provide a better support of the value opinion. 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 for the **supervisor**; and **both the supervisor and trainee** be required by consent order to attend a seven (7) hour supervisor – trainee course and a fifteen (15) Residential Report Writing and Case Studies course to be satisfied within one hundred eighty (180) days of execution of the Consent Order, such terms to be settled by Consent Order or Formal Hearing.

**Note:** Mr. Hall made a motion to dismiss the case. This was seconded by Dr. Mackara. The motion carried by a roll call vote, with Mr. Standifer, Mr. Walton and Mr. Collinsworth in opposition.

**6. 2014032521**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by using inappropriate comparable sales data, reporting the incorrect GLA, reporting incorrect bedroom/bath count, and reporting the incorrect lot size. The complaint alleged that Respondent is located 2.5 hours and over one hundred twenty-five (125) miles away from the subject property; thus, he is not as familiar with the market area as he should have been.

Respondent sent a response to the complaint stating that the Complainant does not understand the intended use, intended users of this assignment, nor the appraiser’s role. The product ordered by the client is a Residential Evaluation Report. The RER has restrictive use as defined within the scope of work and limiting conditions. The intended user of this report is limited solely to the client (a regional bank) identified on the first page of the attached BPO and engagement letter, with the intended use of assisting the client with their asset valuation process. All data within the RER was supplied to Respondent by the client with the request for him to evaluate the RER and provide a reconciled value based off of the RER. Respondent stated he cannot change or manipulate any of the data within the RER, but only amend his reconciliation comments which can be found in the RER addendum. Since Respondent cannot change the data within the RER, the county was reported in error, but the client was aware of this due to software issues on their end. Respondent stated he has been an appraiser for sixteen (16) years and has never had a complaint filed against him. He feels that he met the assignment conditions as requested by the client and reported those results accordingly. Also, Respondent stated that the Complainant is not an intended user of the report.



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

- The “Residential Evaluation Report” is an appraisal because it did not contain the statements required to be an evaluation as per Tennessee statutes, and because the certification declares USPAP compliance. The appraisal could cite the facts in a BPO as a source, but cannot rely on the BPO’s author for significant appraisal assistance. Any opinions expressed by the appraiser that is solely reliant on the author of the BPO is as if the appraiser did not include it in the report of workfile at all. Many of the deficiencies noted in this review report relate to this issue.
- Market Conditions Analysis—Neighborhood: The appraiser has provided no neighborhood data or analysis in the report or workfile. [SR 1-2(e)(i)(Line 534)]
- Description of Improvements –Highest and Best Use: Not performed or reported. [SR 1-3(b)(Lines 578-580); SR 2-2(b)(x)(Lines 805-806)]
- Cost Approach Direct Comparison Approach: The appraiser performed no analysis of his own. He inappropriately relied on the work of the author of a BPO and a "BPO IVA". Based on the outputs of the BPO IVA it is inappropriate to rely on. The BPO IVA shows that adjustments were made, but no explanation or support for any of the adjustments were given. Providing no support, rational, or explanation of adjustment amounts is a violation. While many adjustments cannot be extracted by the market, the appraiser's evidence and logic should be discussed. I.e. communicate the appraiser's reasoning to the intended user. [SR 2-1(b)(Lines 652-653); SR 2-2(a)(viii)(Lines 726-734); Scope of Work Rule (Lines 402-403)]
- Final Opinion of Value Assumptions: The appraiser inappropriately assumed or relied on the BPO for the following: 1) zoning, 2) highest and best use, 3) condition of the property, and 3 trend in values.
- Ethics Rule: The appraiser performed the assignment in a grossly negligent manner. This is largely, but not solely, because of the numerous assumptions of critical issues, and the reliance of the work of a person not acting as an appraiser for significant assistance of relevant analysis and conclusions. [Ethics Rule – Conduct (Lines 249-253)]
- Competency Rule: The appraiser does not appear to have had competency regarding the geographical area prior to accepting this assignment. [Competency Rule (Lines 348-376)]
- Scope of Work: The appraiser should have performed some valuation analysis in addition to the BPO IVA based on the wide range of values indications that were generated. [Scope of Work Rule (Lines 402-403)]

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

- After reviewing the reviewer’s findings, Respondent respectively disagrees with the reviewer. The client was aware of the restrictive use of this report as established by the Engagement Letter and Scope of Work agreement. The client is aware that the intended use of this report is to assist the client in asset valuation process. The report was not intended for any other use. Therefore, the appraiser is not aware that the client utilized the report in any other fashion, such as for loan purposes. This report is intended solely for the client with no additional users mentioned. This Restricted Appraisal Report as mentioned within the Scope of Work warns that any other user of this report may not understand the opinions and conclusions set forth in the report.
- The Scope of Work was clearly reported within the Engagement Letter and within the Residential Evaluation Report. The client understood and agreed to the Scope of Work and the methods or approach of values used and those not used within this report. Also, the Evaluation Content and Scope of Work clearly informed the client the description of the analysis, supporting information, sources of information, the analytical methods and technological tools used to develop the opinion of value. The client is a sophisticated user of this report and understands the methods deployed and role of the appraiser. The Scope of Work and Engagement letter states the person performing the evaluation has relied on the BPO and the other methods mentioned within the report that provided assistance to the appraiser. I do recognize that was not enough and I should have clearly stated the name of the person providing significant assistance within the certification. I did perform a Comparative Market Analysis to determine the availability of comparable sales against the BPO results and verified all comparable sales and listings through public records. In addition to methods and techniques to determine opinion of value within the report, I did a land sales analysis. Therefore, I could

produce an Appraisal Report with the comparable sales and listings used within the BPO, land sales, and CMA in the appraiser's work file.

- The reviewer stated the appraiser performed the assignment in a grossly negligent manner. I again respectively disagree due to the client is a sophisticated user of this report and understands the intended use of this report and the methods used to determine value. Since this report is strictly for the client only and with limitations on the use of the Restricted Appraisal; I feel I did not violate the Ethics Rule. As for the Competency Rule the appraiser has taken all necessary steps to complete the assignment competently.
- The reviewer had concerns over Market Conditions Analysis, Description of Improvements regarding highest and best use and zoning. The BPO within the RER provided the appropriate information regarding Neighborhood/Market Analysis and the Scope of Work, Evaluation Content, Limiting Conditions, Assumptions, and Certifications all stated comments regarding highest and best use and zoning.
- With regard to stating all extraordinary assumptions and hypothetical conditions and stating that their use might have affected the assignment results, Respondent stated that this was clearly stated within the Scope of Work.
- As mentioned before in my reply to the compliant by the homeowner, I have been an appraiser for 16 years and have never had a complaint filed against me. I respect my profession and take my job very serious. I feel that I met the assignment conditions, Engagement Letter and Scope of Work as requested by the client and reported those results accordingly. Also, the homeowner (Mr. Davis) is not an intended user of this report and does not understand the intended use of this report. Therefore, I don't feel I caused him harm monetarily or misled the only intender user of the report which is Regions Bank. It would be my recommendation for Mr. Davis to contact the property assessor office in the subject county to correct all discrepancies concerning the characteristics of his home and to communicate to the lender his concerns regarding this product as reported within the RER under heading labeled: Evaluation Content; To Consumers and Other Recipients. Also, he should request a Uniform Residential Appraisal Report, which is the most commonly used product for obtaining a loan and the most in-depth inspection of the properties characteristics.

<b>Licensing History:</b>	Registered Trainee	3/25/1999-3/20/2002
	Certified Residential	3/21/2002-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** The reviewer found several deficiencies with Respondent's report, including violations of the Ethics Rule, Competency Rule, and the Scope of Work Rule. The appraiser agreed to the scope of work by accepting the assignment and choosing to deliver the report on a pre-developed report form where the client's language defines the reporting option type "Restricted Appraisal Report as defined in Uniform Standards of Professional Appraisal Practice". The form included preprinted, extraordinary assumptions, restrictions on use, intended use and intended user, definition of market value, and scope of work statement. The appraiser then completed the assignment per those instructions, but included in a disclosure addendum that "this opinion as to the listing price or purchase price is not an appraisal," "The intended purpose of this report is to give (sic) an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third part as to the recommended purchase price of real estate." These are inconsistent with the exemptions in T.C.A. 62-39-104 where an evaluation may be performed by an appraiser if real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by the institution; provided, that:

(A) The applicable federal regulator does not require an appraisal by a state-licensed or state-certified appraiser for the loan or trust;

(B) The evaluation is used solely by the financial institutions in their records to document the collateral or asset value;

(C) The evaluation shall be labeled on its face "this is not an appraisal"; and

(D) Individuals performing these evaluations may be compensated for their services.

This report was labeled on its face as being a “Restricted Appraisal Report as defined in USPAP” and its use inconsistently reported as both for asset value and to determine list price. The engagement letter assigned the work to the “Appraiser” and had specific engagement conditions for the appraiser which included in part, “Appraiser Qualification,” “Appraiser Experience and Appraiser Work” and a description that read, “In particular, only the appraiser is best positioned to know when Property Type (e.g., unique subject or market factors) or Other Relevant Factors (e.g., distance) are out of the ordinary. (CLIENT) relies on the appraiser to notify us immediately when such factors arise, and to make any appropriate fee request,” and USPAP compliance, specifically the Competency Rules is required as part the engagement. The Respondent-Appraiser signed this report with his appraiser certification number on the certifications and limiting conditions page where the report is referred to as a Restricted Appraisal Report, not on the addendum page where there is a reference to “list price” and “this is not an appraisal”; that page does not refer to the report as an evaluation.

As such, Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) within thirty (30) days of execution of the Consent Order and a fifteen (15) Uniform Standards of Professional Appraisal Practice (USPAP) course to be satisfied within one hundred eighty (180) days of execution of the Consent Order, such terms to be settled by Consent Order or Formal Hearing.

**Note:** Mr. Collinsworth made a motion to accept counsel’s recommendation on the education alone with no civil penalty. This was seconded by Mr. Walton. The motion carried unanimously by a roll call vote.

## **7. 2015003731**

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

Respondent sent a response to the complaint stating that he was engaged to perform the appraisal for the subject property for the homeowner/borrower. The appraisal assignment was accepted and the initial steps were performed with a contact of the homeowner. An inspection date was set and on that date, Respondent arrived at the subject property and performed an appraisal inspection. The home is an attached condo with basement living area, which is atypical for the area and this style of residence within this market area. After physical inspection of the property, Respondent returned to the office and began the appraisal assignment procedures. As he gathered data via the typical sources, it became apparent that resold data for this specific type of residence (basement condo) was very limited. After searching the sources, local MLS provider, and public tax records, Respondent stated he used the best available data that was found during these searches to reconcile his final opinion of market value for the subject property.

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

- Highest and Best Use: This was stated, but the relevant physical, legal and economic factors were not analyzed or reported. [SR 1-3(b)(Lines 578-580); SR 2-2(a)(x)(Lines 743-744)]
- Direct Comparison Approach: The appraiser stated the adjustment amounts for many of the line-item adjustments. However, no explanation or support for any of the adjustments were given. No analyses were found in the workfile indicating no analyses were performed. While many adjustments cannot be extracted by the market, the appraiser’s evidence and logic should be discussed, *i.e.*, communicate the appraiser’s reasoning to the intended user. This approach is not complete, accurate, adequate, and relevant until some evidence and logic is provided for the adjustments. [SR 2-1(b)(Lines 652-653); SR 2-2(a)(viii)(Lines 726-734); SR 1-1(a)(Lines 486-488); SR 1-4(a)(Lines 584-585); Scope of Work Rule (Lines 402-403)]
- Report: The report is not appropriate as it could be misleading based on the deficiencies identified.
- Scope of Work Rule: No analysis performed to provide evidence for the line-item adjustments in the DSCA and the highest and best analysis.

**Licensing History:**

Registered Trainee

8/25/2004-3/29/2007

**Disciplinary History:** None

**Reasoning and Recommendation:** Counsel recommends that this matter be **Closed with a Letter of Caution**, cautioning Respondent as to the importance of explaining and supporting Respondent's conclusions in future appraisal reports.

**Vote:** Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The motion carried unanimously by a roll call vote.

**8. 2015006301**

This complaint was filed by an appraiser and alleged that Respondent AMC sought to influence the results of an appraisal by attempting to make the appraiser change the description of the improvements, relating to the condition of the carpet.

Respondent sent a response to the complaint stating that at no time did Respondent say anything to Complainant or anyone else about being removed from Respondent's panel. Respondent stated that Complainant is currently an active appraiser on Respondent's roster. Complainant completed an assignment on March 19, 2015, which was assigned after his complaint. Respondent stated that Complainant went on to tell Respondent that the complaint was a "misunderstanding". Respondent inquired about the carpet from Complainant, indicating that he had been told the carpets were stained and dirty, but other parties indicated that they could be cleaned and serviced and had some remaining life. At this point was the first time Complainant had expressed there may be a health and safety concern regarding the carpet. This was expressed verbally, and there is no report outlining any health concern for the carpet. Respondent stated Complainant asked for his suggestions, and Respondent indicated that in order to help the reader of the report understand what was being conveyed, Respondent indicated that he was going to include comments about the carpet based on the photos currently supplied in the report, which did not indicate any issues with the carpet. Respondent stated that after speaking with everyone involved, including Complainant, he believes the entire situation was a misunderstanding and blown out of proportion. Respondent stated it has no intention of removing Complainant from the panel, and staff did not attempt to improperly influence the Complainant.

**Licensing History:** Registered AMC 7/1/2011-Present

**Disciplinary History:** None

**Reasoning and Recommendation:** This complaint provided no evidence of a violation on the part of Respondent, nor did it provide evidence that Respondent has removed Complainant from its panel. As such, Counsel recommends that this matter be **Closed with no further action**.

**Vote:** Dr. Mackara made a motion to accept counsel's recommendation. This was seconded by Mr. Thomas. The motion carried unanimously by a roll call vote.

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Having no further business, Mr. Johnstone adjourned the meeting at 11:50 a.m.