



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

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

The Tennessee Real Estate Appraiser Commission met on July 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 9:08 a.m. and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Mark Johnstone  
Timothy Walton  
Norman Hall  
Nancy Point  
Rosemary Johnson  
Eric Collinsworth  
Randall Thomas  
Dr. F. Mackara

**COMMISSION MEMBERS ABSENT**

Gary Standifer

**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 May 18<sup>th</sup>, 2015.

**ADOPT AGENDA**

Mr. Hall made a motion to adopt the agenda. It was seconded by Mr. Thomas. The motion carried unanimously.

**MINUTES**

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

**REPORT OF EXPERIENCE INTERVIEWS**

**Stanton Eugene Allen** made an application to upgrade from a licensed real estate appraiser to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended his experience request be granted. Mr. Walton made a motion to accept the recommendation. This was seconded by Ms. Point. The motion carried unanimously.

**Mark Alan Walden** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended his experience request be granted. Mr. Walton made a motion to accept the recommendation. This was seconded by Ms. Point. The motion carried unanimously.

**Anthony Glenn Samples** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended his experience request be granted. Mr. Walton made a motion to accept the recommendation. This was seconded by Ms. Point. The motion carried unanimously.

**Heather Ann Coleman** made an application to upgrade from a registered trainee to a licensed real estate appraiser. Mr. Collinsworth was the reviewer and recommended her experience request be granted. Mr. Walton made a motion to accept the recommendation. This was seconded by Ms. Point. The motion carried unanimously.

**Jessica Dale Bishop** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended her experience request be granted. Mr. Walton made a motion to accept the recommendation. This was seconded by Ms. Point. The motion carried unanimously.

**Terence John Peacock** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Hall was the reviewer and recommended his experience request be granted. Mr. Thomas made a motion to accept the recommendation. This was seconded by Ms. Johnson. The motion carried unanimously.

**Jared Dubose Smith** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Ms. Point was the reviewer and recommended his experience request be granted. Mr. Hall made a motion to accept the recommendation. This was seconded by Mr. Collinsworth. The motion carried unanimously.

#### **JULY 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
Melissa Bond	1849	HUD Handbook 4000.1	M. Bond	7	CE	Approve
McKissock, LP.	1850	The New FHA Handbook 4000.1	D. Bradley	7	CE	Approve
ASFMRA	1851	Legal Descriptions in Appraisal	H. Audsley	4	CE	Approve
ASFMRA	1852	Sales Comparison Approach Revisited	H. Audsley	8	CE	Approve
IRWA	1853	2015 Spring Education Forum	J. Bennett, B. Reynolds, K. Jones, R. Button	4	CE	Approve
TDOT	1855	Appraisal Principles and Procedures Under the Uniform Act	J. M. Jones, M. Wainwright	6	CE	Approve
ASFMRA	1856	Understanding and Using Comparable Transactions	P. Bierschwale	7	CE	Approve
ASFMRA	1857	Rural Sale Analysis and Confirmation	J. Bierschwale	8	CE	Approve
ASFMRA	1858	Introduction to Statistical Analysis for Appraisers	D. Hodge, T. Hodge	8	CE	Approve
NAIFA	1861	The Secrets to Hotel/casino Valuation	L. Golicz, R. Rath, N. Thompson, M. A. Weidner	7	CE	Approve
NAIFA	1862	Words of Wisdom from VA and FNMA	P. Chilton, R. Murphy	4	CE	Approve
NAIFA	1863	Statistical Analysis and Expert Valuation	E. Demba, T. Countryman	7	CE	Approve
NAIFA	1864	Residential Appraising: New Things to Think About	M. Orman	7	CE	Approve

NAIFA	1865	Collateral Underwriter and the Future of Appraising	M. Orman	4	CE	Approve
NBI, Inc.	1866	Land Use Law: Current Issues in Subdivision, Annexing and Zoning	G. Dean, S. Edwards, W. Penny, R. Smith	7	CE	Approve
Columbia Institute	1818	FHA SFR Appraising-Handbook 4000.1, No. 154	B. Boarnet, A. L. Brown, D. Sever, R. Wilson	8	CE	Approve
Dennis Badger	1867	2015 Fannie Mae Refresher & Updates	T. P. Velt, M. Deweese, J. B. Hoover, D. Badger	7	CE	Approve
GA Appraiser School	1868	The New 4000.1 FHA Document & Valuation Protocol	J. P. Smithmyer	7	CE	Approve
Appraisal Institute	1870	Appraising Convenience Stores	R. Bainbridge	7	CE	Approve

### Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Craig Huber (CG 1307)	Appraisal Institute, KY	The Discounted Cash Flow Model	7	CE	Approve
Jason Layman (CR 3166)	TN Dept. of Property Assessments	TN DPA Appraisal Fundamentals Workshop	15	CE	Approve
Douglas Russell (CR 4167)	IAAO	Course 311 – Residential Modeling Concepts	30	CE	Approve
William Swain (CR 2321)	Appraisal Institute	FHA and the Appraisal Process	7	CE	Approve
David C. Horner (CG 4242)	IAAO	Fundamentals of Real Property Appraisal	30	CE	Approve
Michael T. Orman (CG 192)	AARO	AARO Investigator Training – Level 3	17	CE	Approve
Thomas K. Tegarden (CG 93)	Wichita State University	Appraisal for Ad Valorem Taxation	20	CE	Approve
Diane M. Ange (CG 92)	IAAO	Fundamentals of Real property Appraisal	30	CE	Approve
Joel A. Fulmer (CG 385)	CCIM	STDB: The New Generation	6	CE	Approve
Ben G. Jones (CG 3082)	CCIM	CI 103 User Decision Analysis for Commercial Investment RE	38	CE	Approve

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

### ELECTION OF OFFICERS

Mr. Hall made the motion to nominate Mr. Walton as Chairman and Mr. Standifer as Vice Chairman. The motion was seconded by Mr. Collinsworth. The motion carried unopposed.

### DIRECTOR'S REPORT

Director Avers congratulated board members Mr. Mark Johnstone and Ms. Rosemary Johnson on their recent reappointments to the board.

She then presented the budget, year to date expenditures and revenue, current license counts and a summary of the complaint numbers as of the current month.

There were no legislative updates to report.

For the upcoming AARO conference in in October to be held in Washington, DC, she suggested the board approve two members, the board attorney and herself as attendees.

**Vote:** Mr. Collinsworth made the motion to approve travel to the October AARO conference in Washington, DC, for Director Avers, board attorney Mr. Chick, new Chairman Mr. Walton and Vice Chair Mr. Standifer. This was seconded by Mr. Hall. The motion carried unanimously.

Ms. Avers informed the board that several new programs from the division of the regulatory boards had been added to her responsibilities as Director, and as before, she would remain committed to the appraisal profession, but requested their patience with her time as these new initiatives got underway.

The board members were encouraged to take a look at the new Real Estate Appraiser Commission website, which was more user friendly for users and licensees and specifically designed to present a consistent image throughout the state.

A new licensing system would be going live in September so there would be a brief period of inactivity during the transition from the old licensing database to the new system. As such a recommendation had been made to all licensees to renew early if their renewals were due during that time.

In ending the Director made a suggestion to put an additional policy in place that would allow the administrative office/staff to approve credential upgrades once an applicant had successfully passed the experience interview and submitted proof of passing the national AQB examination. The board members tabled a discussion on this matter.

### **APPLICANT CONFERENCE**

The board recognized Mr. Thomas McCambridge who had made an application to become a registered trainee appraiser after agreeing to the voluntary surrender of his certificate to practice as a residential real estate appraiser in Pennsylvania, along with any other licenses, registrations, certificates or permits issued by the board, for a minimum period of five years. This was because he had failed to complete an appraisal assignment within the requirements of USPAP; failed or refused to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal, and negligently or incompetently developing an appraisal, preparing an appraisal report or communicating an appraisal. Mr. McCambridge explained the circumstances of his surrendering the PA license to the members, adding that he had never been disciplined in the last 22 years as an appraiser and let the license there expire since he was no longer living in PA and had since moved to Tennessee, where he wanted to start a career in appraising once more.

Based on reviewing the disciplinary action report of Pennsylvania, Director Avers recommended that this applicant be denied, as the state from which he had the credential which he surrendered, prohibited his reapplying for a minimum of five years. Since it had been only two years to date on his application in Tennessee, approving his application would seem inconsistent with their implied intention to protect the public.

**Vote:** Dr. Mackara made a motion to accept the Director's recommendation that the application be denied. This was seconded by Mr. Walton. Mr. Collinsworth abstained from the vote, which carried by majority, with Mr. Hall and Mr. Thomas in opposition.

### **LEGAL REPORT**

#### **1. 2015001551**

This complaint was filed by the FDIC, Division of Risk Management Supervision, and alleged that Respondent fails to comply with USPAP Standards. The complaint alleged that the appraisal was deficient in the following areas: Scope of Work Rule and Standard 1 Real Property Appraisal, Development. Specifically, the complaint alleged that the support for assumptions is lacking. The appraisal relied on a discounted cash flow analysis to arrive at an "as stabilized" value. However, the appraisal lacked a feasibility or market analysis to support projections and assumptions. In addition, numerous exceptions are detailed that highlight deviation from Standard 1. The appraisal did not include support to project revenues and expenses and the commentary did not support capitalization rate assumptions. The final reconciliation information fails to provide sufficient support between the two approaches used or reconcile value differences.

Respondent sent a very lengthy response to the complaint, contending that the scope of work is consistent with the appraisal of real estate similar to the subject and that the scope of work is consistent with that of peers performing similar appraisals for similar type properties within the geographical area. Further, Respondent states that the appraisal is developed with data submitted by the client illustrating revenues and expenses which are reconstructed to conform to acceptable appraisal practice.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:** The report does not indicate that the appraiser employed adequate execution of research, data collection and analysis to produce a credible report. [SR 1-1(a)]

- The appraisal has several errors of inconsistency as to comments, sentence structure, etc. The number of errors appears to exceed what would be acceptable. [SR 1-1(b)]
- The dates of value opinion and values appear to conflict in those different values were reported as of the same value date. [SR 1-2(d)]
- The property's general description and extent of explanation appears to fall short of what the appraiser's peers would expect. The allocation of land area differing from that set out within the legal description is of question. The lack of provision of a plat of the subdivision which illustrates the streets lot numbers and tax parcel numbers along with some discussion of the property's layout, lot configuration and general information is not provided to the extent that would be expected. [SR 1-2(e)]
- The appraisal includes a Scope of Work litany. However, that litany includes exception of Highest and Best Use market study, etc. Given the uniqueness of this property relative to occupancy, rent up, etc., it would be beneficial to have had some summary and reasoning as to the assumptions regarding occupancy changes over time as opposed to general statements of those projections. [SR 1-2(h)]
- When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion. From reading the package, it appears the appraiser was of the opinion that a sales comparison approach was not practical on the onset but included one to satisfy the client. The comparable sales selected fall short of being comparable to the property being appraised. Given the investment nature of this property type, it would be reasonable to include a broader regional search for sales of larger mobile home parks from which could be developed ratios of price relative to gross rents, net income, expense ratios, etc. Such analysis would likely be expected by the market for such services. [SR 1-4(a)]
- This appraisal stated area rental indication but there was no data presented that bracketed or supported the conclusion. The Standard requires the same comparable data for the expenses and the use of extracted data to estimate capitalization or discount rates. The standard requires that projections of future rent, income potential, expenses, etc., are based on appropriate evidence. [SR 1-4(c)(i)]
- The appraisal does not contain adequate market data or explanation to allow the reader to properly understand the report. [SR 2-1(b)]
- The fact that the legal description included in the report offers acreage in excess of that set out within the appraisal description appears to be a violation. There was no explanation of the difference. [SR 2-2(a)(iii)]
- The definition of value was set out within the appraisal, but the source of the definition was not cited. [SR 2-2(b)]
- The package included appraisals with different transmittal dates and value dates. However, two of the products included the same value date but different values. [SR 2-2(v)(i)]
- The discounted cash flow analysis sets out assumptions regarding rent up or decrease in vacancy but the reasoning or market analysis that leads to those assumptions is not set forth within the report. The exclusion of the cost approach, although likely applicable, was somewhat convoluted in the approach in that it says the cost approach was considered. However, in reviewing the workfile, there is no indication of any attempt to process the cost approach or any information as to why the cost approach or any information as to why the cost approach specifically was not practical. [SR 2-2(v)(iii)]
- The property is described as having 22.24 acres in several instances throughout the report. However, the legal description indicates the property to have 25.59 acres based on surveys, as well as visual engineering. If the property contains 22.24 acres, the reviewer found no explanation as to why the acreage was different than that set out within the deed.
- Final conclusion is shown at \$1,910,000 on the summary pages, and the transmittal letter states \$1,925,000.

- The tax data reports annual tax load of \$5,517.59, which does not appear to accurately reflect the total tax burden for this property.
- There is no analysis or comments regarding the relationship of the area data report to the subject property.
- There is no mention of water or sewer under the utility service section.

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

- My research included the search of sales and listings of mobile home parks. This research included sales and listings within 60 miles of the marketing area. Interviews with market participants include individuals whom have constructed mobile home parks or own mobile home parks.
- My assistant typed this appraisal report and was unaware that the computer's software was not working properly during the preparation of the report. A computer programming repair was made and the errors in spelling and grammar were corrected in subsequent reports.
- A value indication was made for the mobile homes themselves and the mobile home park. This was done due to the risk rate for mobile homes excluding the value of any mobile homes. The date of appraisal is the last date I physically viewed the property. Realty Rates.com was consulted as of the date of the appraisal for the cap rate. The risk rate based on discussions with market participants was added to the cap rate. A third indicated value was made to include the mobile homes and the mobile home park together.
- Various dates were used due to the lender/client placing a hold on the report. In regard to different values, the values are considered in the income report due to the risk factors involved with a mobile home versus a mobile home pad. The appraisal included both the mobile home park and the mobile homes in the park with the full value estimate from the income approach that indicated the value for the whole mobile home park.
- The rent indicated in the appraisal report is based on contract rent for the mobile homes and the space rental. The rate of \$500 per month includes the mobile homes and mobile home spaces. Due to the mobile home rentals, a higher risk factor is calculated. One value is considered for a mobile home pad while another is considered for the mobile homes. The past three years the appraiser could not locate any sales of mobile home parks equal or larger than the subject property which include the mobile homes and the pads.
- I disagree with the statement that the property's general description and extent of explanation falls short. This information was requested from a bank on several occasions as well as being requested from the reviewer. No plat of the mobile home park indicating the mobile home pads was made available to the appraiser even though it was requested numerous times.
- There was insufficient data to make an adequate projection of income and expense increases other than what was discussed in the report which included insurance and property tax increases. Therefore, projections for the subject property included in the report were made based on interviews with market participants, as previously indicated. Vacancy and rent-up were based on these interviews.
- Research reveals there were no sales of mobile home parks as large or larger located within 60 miles of the subject property. The income and expenses are based on interviews with the market participants previously been identified.
- This is based on market participants as well as capitalization rates, indicated in Realty Rates.Com. The contract rent being \$500 per month indicates \$375 per mobile home and \$125 per mobile home space. The \$125 is based on numerous newspaper advertisements in local newspapers and with consulting market participants. Please consider the updated appraisal report submitted with the Answer to the Complaint. This report was also sent to the bank.
- I had limited data available for projections. The income and operating statements that were provided by the bank did not appear to be correct in all of the reporting. The income and operating statements were reconstructed to formulate what might be the expenses without the benefit of an audit by a certified public accountant to project the actual expenses.

- Review of the Reality Rates. Com included in the revised report and the data included is the best available. Reality Rates. Com was consulted to determine the capitalization rate. The basis points added to the capitalization rate were based on discussions with Collateral Evaluation Services included in the revised report and the data included is the best available.
- In viewing the property, the mobile home park appears to be within the boundary lines of the fenced area. Requests for plats and additional information about the property boundary were made to the bank but only the legal description was provided. The tax map indicated 22.24 acres. There was a conflict between the warranty deed and the calculated acreage provided on the tax records. I have attached the tax map and the warrant deed which is labeled **Attachment #1** that shows the tax map calculations and the boundary description.
- On page 4 of the appraisal report, a paragraph shows the Uniform Standards of Professional Appraisal Practice (USPAP) definition for 2012-2013 which was used in the report. See attachment labeled **Attachment #2**.
- A value indication was made for the mobile homes themselves and the mobile home park. This was done due to the risk rate for mobile homes excluding the value of any mobile homes. Realty Rates.com was consulted as of the date of the appraisal for the cap rate. The risk rate based on discussions with market participants was added to the cap rate.
- The cost approach is considered in the report. The subject property is a fully developed mobile home park. The cost approach is considered for proposed construction of this type of development. It may or may not be reflective of the final value estimate. When physical, functional and external obsolescence are considered, in the absence of other data and sales, these items of depreciation are very difficult to support with property such as the subject property.
- Courthouse records indicate the area is 22.24 acres. A discrepancy between the warranty deed and the tax records has been previously stated. Please see the Warranty Deed labeled **Attachment #3**. The warranty deed was not made available during the time this appraisal was being processed.
- The final conclusion is an error that occurred as a result of having to re-submit the report. The amount should have been \$1,700,000. This error should not have been included in the final report. A reconstructed financial statement has been included to illustrate the value of the subject property, assuming the property taxes on the spreadsheet from the Bank are correct. The taxes do not match what is shown on the property tax rolls. Although this is not included in the report, it is only attached as a response to the reviewer's potential violations.
- The tax data reports an annual tax load of \$5,517.50, which does not appear to accurately reflect the total tax burden for this property. There is a division between the property tax for the mobile home park and the property tax for each mobile home, which are taxed separately, whether owned or is in a rented space. The County Trustee's office was contacted to determine the property taxes for the mobile home park. I have attached information labeled **Attachment #4** along with the property taxes reported by the bank.
- Analysis on pages 20- 56 of the report is a description of how the area relates to the population and statistics of the area.
- On page 58 of the report, it is stated, " The site has separate utility water meters for each space and onsite sewage treatment." No information was received from the lender about the fees, upkeep or expenses for the sewage treatment. Again, this information was requested, yet not received in a timely manner.

**Licensing History:** Certified General 1/31/1991-Present

**Disciplinary History:** (200708671 – Closed with Letter of Warning for failure to summarize the analysis of the agreement of the sale which included a financial contingency and significant personal property; 201001172-Closed with a Letter of Warning regarding failure to report prior sales of comparables and two reports issued had the same date though communicated on different dates.)

**Reasoning and Recommendation:** Taking into account the reviewer's conclusions, 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 to be settled by Consent Order or Formal Hearing.

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

## **2. 2015001921**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property. The complaint alleged that Respondent did not give the project due diligence, which cost the Complainant the appraisal fee, credit report fee, and many more dollars in continued Primary Mortgage Interest (PMI).

Respondent sent a response to the complaint stating that she had completed prior inspections of the property, which she disclosed up front to the lender. They were both at a considerable period in the past and were completed for a different borrower and a different lender. Respondent stated that the current lender had no issue with this and neither did Respondent. Respondent admitted that there were errors in her report but that they did not affect value. A month after submitting the report to the client, Respondent stated she received a message from the lender that the borrower was asking for a reconsideration of value based on the information contained in the prior appraisal. Respondent then submitted an addendum to the reviewer, not assuming that this addendum would be supplied to the borrower. Respondent stated that she did not feel motivated by any of the subsequent data presented from the prior appraisal to change her indicated value. Respondent stated she never heard anything back from the lender. Respondent stated that her fee is not paid based on whether the appraised value meets anyone's expectations. The amount of the fee is set by the lender. Respondent stated she did her job, and cannot help that the appraisal did not meet the borrower's expectations.

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

- Adjustments – Sale No. 5 (listing) was adjusted downward 10 percent for market conditions (listing vs. sale). This rate of adjustment conflicts with the market conditions addendum section of the report where sale to list price for the area is shown to be from 97 to 98 percent. No comment is observed as to why this listing is adjusted by 10 percent as opposed to 2 to 3 percent typical of this area. [SR 1-6(a); SR 2-2(viii)]
- Correlation – Appraiser's comment as to sale 4 setting the low end of value and therefore indicative of a quick sale does not fit the data. Sale 4 sold at \$250,000 and was adjusted to \$215,900. [SR 1-6(a); SR 2-2(viii)]
- Appraiser's analysis comments indicate that Sales 3 and 4 were given primary consideration in assigning value to the subject. Sale 3 sold at \$168,000 and was adjusted to \$194,400. Sale 4 sold at \$250,000 and was adjusted to \$215,900. Equal weight to these two sales would indicate \$205,150. [SR 1-6(a); SR 2-2(viii)]
- No comment is made as to why more weight is given to sale 3. Sale 3 had an absolute adjustment of about 30% and a net adjustment of 16%, while sale 4 had lower adjustments of 25% absolute and 14% net. [SR 1-6(a); SR 2-2(viii)]

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

- Much of the background data remains in the appraisal workfile, and sometimes is not verbalized or written down at all. The report is foremost addressed to individuals in the industry who will already have some knowledge and background in discerning what the report actually presents.
- With regard to list to sales price adjustment for comp #5, the 1004 MC form is an FNMA form and we have been instructed to report the average list price, average sales price and average days on market per the FINAL listing. That is the data reported in the 1004MC form. However, it is observed that MLS history shows that two of the four sales had extended marketing times. Sale #3 actually had 2 listings back to back for a total of 157

days. After multiple price reductions it sold for 84% of its Original List Price. Sale #4 also had 3 listings by the same agent over a 2 year period for a total of 550 days on the market and after several price reductions sold for 83% of its Original List Price.

- Comp #5 was listed at its Original List Price of \$212,000 when used in the appraisal report. Moreover it had a prior sale in 05/2012 for \$179,900 and no significant changes since that sale. If, as observed in the 1004MC commentary, values for similar properties have remained stable for the past 2 years; then this property should not be worth much more than what it previously sold for. Given that background, I adjusted it at a higher estimated list to sales price ratio than that indicated in the 1004MC form, per the FINAL list price. In hindsight, I would like to note that the property is still on the market at \$212,000 after 271 days.
- Correlation of comments regarding sale #4. When I sent in the original copy of this report to the State, I also included a revised report correcting a couple of typographical errors including this one. It was sale #2 which set the low end of the value range and is indicative of a quick sale value. This is because it sold for less than the prior sales price in 2006. Given that values were still appreciating roughly 5% annually up through early 2008, and are generally considered to have "reset" to pre-recession values within the past 2 years; then this property should have had a current market value somewhere in the realm of \$200,000 in 2014. Selling in 2 days at roughly 9% below "market" value is indicative of a quick sale.
- It is sale #1 that had the prior sale as a foreclosure and the comments regarding its being updated and flipped are accurate. The remark that it is common for such properties to sell quickly is also accurate, given that potential buyers who have observed the renovation process have already approached the seller privately about acquisition. Although this property was noted in the report as still being in a "pending" status in MLS at the time of appraisal; it has since been moved to "closed" sales. It is shown as having "0" days on the market and sold for 99% of the reported list price.
- Assigning value: As stated in the report, sales #3 and #4 were given primary consideration in assigning value to the subject. No, they were not given equal weight and that is based on two things:
  - (1) The subject is more similar to sale #3 in terms of having a similar above grade size and being located on a lot instead of acreage. But the subject is also superior in having a partial unfinished basement area and the additional pool feature. Sale #4 is also very physically similar to the subject but is superior in both above grade size and having finished basement area; in addition to having the acreage.
  - (2) This report was being done for a FNMA lender and although I can at times justify excessive adjustments; it would be less acceptable to the Lender for me to give primary consideration to an 18 month old sale over sales up to 12 months old. Therefore, of those two sales, value was assigned with more credence given to the more recent sale.

**Licensing History:** Registered Trainee 1/31/1995-3/12/1996  
Certified Residential 3/13/1996-Present

**Disciplinary History:** 200420943 - Dismissed

**Reasoning and Recommendation:** The reviewer found two primary issues when reviewing this appraisal. Adjustments did not match market data relative to sale/list ration, and communication of analysis regarding how value was concluded was lacking. Respondent has been a certified residential appraiser for almost twenty (20) years with no prior disciplinary action against her. As such, Counsel recommends dismissal of this matter as the differences in opinions appear adequately addressed and the reviewer's conclusions very minor in this instance.

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

### **3. 2015003571**

This complaint was filed by a Federal Credit Union and alleged that Respondent over-valued a residential property by reporting incorrect lot size and sewer system. The property has no septic tank, nor did it ever have a septic tank, and the lot size is too small to support a septic tank. There is no city sewer available for this property. Further, the Complainant has to sell the property for the land value only, which is \$2,400 as per the tax value.

Respondent filed a response to the complaint stating that the owners of the home told him that they had a well and a septic system. Respondent stated court records show individual well and septic. Respondent stated it also showed the lot dimensions as 100x185. Respondent only informed the bank of the information that he received from the home owners and the source that is typical and usual from the court house retrieval system at the time of inspection. Respondent stated the public records available on that data proves that he did nothing wrong in those areas.

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

- Subject: The assessor parcel number and legal description are incorrect and relates to the property located next door. As a result, the taxes are incorrect.
- Neighborhood: The neighborhood boundary directions are incorrect.
- Site Data: The lot dimensions are indicated to be 100 x 185, which is incorrect. The lot dimensions reported of 100 x 185 are for the adjoining parcel. It appears that the appraiser used the next door property as the base for the appraisal site description. The zoning is shown to be "no zoning;" however, the property is within an area subject to zoning. The correct zoning is Rural District -1 or abbreviated as R-1. [SR 1-1(b)(c)]
- Improvements: The improvement is described as being a detached one unit, ranch style home constructed in 1959 with an effective age of 35 years. Room count is shown as 4 rooms, 2 bedrooms, and 1 bath with living area of 936 square feet. The correct tax card for this address indicates the residence to have 1544 square feet constructed in 1985. The floor area is noted to be a base of 904 square feet and a semi-finished area of an additional 640 square feet. The appraisal reported living area to be 936 square feet. The field review appraisal indicated the home to have 805 square feet of finished living area and notes that a screened porch was included in the original appraisal footage.
- Sales Comparison Approach: Sale history for comparable number 2 was not reported. Adjustments appear to be incorrect in that the subject lot size was reported incorrectly. Sale number 1, in addition to the carport listing on the grid, also included a two car garage that was not accounted for. The summary of sale comments indicates that the subject "has an estimated value range of \$109,340 to \$117,000, with the appraised value being a single point value estimate within that range." This information is incorrect in that the property was appraised at \$72,000.
- Cost Approach: The cost approach was estimated at \$55,134. The site value was estimated at \$7,500. A comment within the cost approach section indicates that the support for site value was based on "using vacant land sales, when available, and using allocation and/or extraction when necessary". The reviewer found no information within the workfile or the appraisal report which indicates how the site value was derived. Secondly, the site value estimate would be based on the lot size of 100 x 185 as opposed to the correct area which is significantly smaller. The value conclusion within the cost approach of \$55,134 is significantly different from the indication from the sales comparison approach, and the reviewer saw no reconciliation.
- Reconciliation: Within the value indication section, the sales comparison approach is recorded at \$72,000 and cost approach at \$55,134. This is followed by the statement "See Attached Addenda". The reviewer did not find an addenda item addressing the value difference or any resulting correlation.

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

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached.

**Licensing History:** Licensed Real Estate Appraiser 12/20/1991-Present

**Disciplinary History:** (941860 – Dismissed)

**Reasoning and Recommendation:** 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. Such terms to be settled by Consent Order or Formal Hearing.

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

#### **4. 2015004131, 2015004141**

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission as a result of a trainee experience interview. This matter concerns the supervisor and trainee in three residential appraisal assignments, where USPAP violations were indicated by the reviewing board member.

No response was requested prior to the review being conducted. The response was requested after the review was completed.

#### **Property #1**

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

- Listing History: The FNMA/URAR report asks, "Is the subject property currently offered for sale?" The report under review was completed to assist in the mortgage of a purchase transaction. It would be reasonable to assume that the property was being offered "for sale". [SR 1-5(a); SR 2-2(a)(viii)]
- Site: The report does not provide the reader with any analysis or summary of those relevant factors affecting the highest and best use decision. The report was simply marked "yes" when asked if the highest and best use of the subject property as improved the present use. [SR 1-3(b); SR 2-2(a)(x)]
- Sales Comparison Approach: Sales Comparison opinions, analysis, and conclusions are not properly supported. It was noted in the report that the subject property has not had any updates in the past 15 years. In researching the MLS information for this sale it was noted in the MLS comments that, "renovations and updates just completed". There was no discussion or analysis provided as to the comparability of Sale #1 to subject. In researching the information about sale #2, it was discovered that the property was originally listed 10/8/2013 for 116,000 according to MLS #3282926. When the property closed it was re-entered into MLS as # 9929346 and reflected the sale price of \$105,000. This listing also notes that \$5,621 in seller contributions was paid. This was not noted in the appraisal report. [COMPETENCY RULE; SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]  
Site Value/Cost Approach: No supporting information was found in the report 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: There was no information or support provided in the report indicating that the information presented was verified. The report indicates that the rental comparables indicate a “rental range of \$.78 to \$.82 per square foot”. This would indicate a mathematical rent range of \$957.84 to \$1006.96, however the report states that the “estimated monthly rent of the subject as of 7/28/2014 to be \$900.00”. No analysis or discussion was provided to support this 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. [COMPETENCY RULE; SR 1-1(a)(b)(c); SR 1-4(c)(i)(ii)(iii)(iv); SR 2-2(a)(viii)]
- Reconciliation: The reconciliation does not reconcile quality and quantity of data used in the approaches to value. The report states, “Sales comparison approach is given most consideration due to reliability of sales data; cost approach is given no value due to difficulty in estimating depreciation; income approach is given consideration due to current rental status of subject property”. Based on this statement, the sales comparison approach was given the most weight in the final opinion of value. There is a lack of proper analysis in the sales comparison approach reducing its reliability and credibility. The income approach was not completed, which is inconsistent with the above statement. [SR 1-6(a)(b); SR 2-2(a)(viii)]

## **Property #2**

- Neighborhood: The report notes that there is an oversupply, but the attached 1004MC for indicates the numbers of area listings are declining. The report also indicated that marketing time is over 6 months but according to the 1004MC for the median comparable sales days on the market were 43 days, and the median listing days on the market were 109 days. This information provided in the report is inconsistent. [SR 1-1(b); SR 1-2(e)(i)]
- Site: The report was correct in identifying the zoning classification as R-8, but the description was incorrect. The correct description is “residential single family”. The report does not provide the reader with any analysis or summary of those relevant factors affecting the highest and best use decision. [1-2(e)(i); SR 1-3(b); SR 2-2(a)(x)]
- Description of Improvements: Relevant depreciation factors that affect the improvements have not been properly analyzed. [SR 1-2(e)(i); SR 2-2(a)(iii)]
- 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 appraiser has not adequately verified, reported, or analyzed the sales utilized, which reduces the credibility of this approach to value. [SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- Site Value/Cost Approach: No supporting information was found in the report indicating that the opinion of site value was completed by an appropriate appraisal method or technique. The cost approach to value was not provided. The exclusion of the cost approach to value has not been adequately explained or supported. [COMPETENCY RULE; SR 1-4(b)(i); SR 2-2(a)(viii)]
- Income Approach: There was a comparable rent schedule included in the appraisal report, but there is no indication or support that the information presented has been adequately collected and verified. The income approach to value was considered in estimating a final market value, but no income, expenses, or vacancies have been analyzed and no gross rent multiplier (GRM) was provided. [COMPETENCY RULE; SR 1-1(a)(b)(c); SR 1-4(c)(i)(ii)(iii)(iv); SR 2-2(a)(viii)]
- Reconciliation: The reconciliation does not reconcile quality and quantity of data used in the approaches to value. [SR 1-6(a)(b); SR 2-2(a)(viii)]

## **Property #3**

- Neighborhood: The report notes that there is an oversupply, but the attached 1004MC for indicates the numbers of area listings are declining. The report also indicated that

marketing time is over 6 months but according to the 1004MC for the median comparable sales days on the market were 167 days, and the median listing days on the market were 61 days. This information provided in the report is inconsistent. The neighborhood trends section of the report indicates that the area property values range from \$125,000 to \$850,000 with a predominant value of \$325,000 and are stable. Supply/demand is in over supply, and marketing time is over six months. The attached 1004 MC form states, *"The median sales price for similar homes in the subject's market area has increased over the 12 months prior to the effective date of this report."* This information presented is inconsistent and there is no correlation or analysis presented within the report. [SR 1-1(b)(SR 1-2(e)(i))]

- Site: The zoning was not adequately and accurately reported and the report does not provide the reader with any analysis or summary of those relevant factors affecting the highest and best use decision. [SR 1-2(e)(i); SR 1-3(b); SR 2-2(a)(x)]
- Description of Improvements: No significant comments were presented to indicate the level or extent of the updates and/or renovations. No comments were provided as to the level and extent of master bath and bedroom addition. The property condition rating (C-2) seems to be inconsistent with the information provided. The subject property is 34 years old with some renovations, updates, and additions. [SR 1-2(e)(i); SR 2-2(a)(iii)]
- Sales Comparison Approach: Adequate reasoning has not been provided for the adjustments and sufficient analysis has not been provided to support opinions and conclusions. [SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- Site Value/Cost Approach: The report notes in the site comment section of the cost approach, *"Site value obtained from the extraction and allocation method"*. This is a confusing statement as it addresses two separate methods for site valuation. No supporting information was found in the report indicating that the opinion of site value was completed by an appropriate appraisal method. [COMPETENCY RULE; SR 1-4(b)(i); SR 2-2(a)(viii)]
- Income Approach: The income approach was not developed. The reasoning for the exclusion of the income approach was found in the reconciliation section of the report, and was reported as follows, *"income approach given no value due to the area being predominantly owner occupied"*. The statement does not address if the income approach was considered or if it was considered not applicable. [SR 2-2(a)(viii)]
- Reconciliation: The reconciliation does not reconcile quality and quantity of data used in the approaches to value. [SR 1-6(a)(b); SR 2-2(a)(viii)]
- Previous Experience: It was noted on page 3 of 6 of the URAR report that the signing appraiser has had a previous experience with this property, dated 7/21/2014. The certification page of the report states, *"I have (no) (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within a three year period immediately preceding the acceptance of this report"*. This is not a clear statement as required by USPAP. USPAP Ethics Rule-Conduct Section states, *"If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in each subsequent report certification: Any services regarding the subject property performed by the appraiser within a three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity"*. While it was noted in the addenda of the report it was not properly disclosed in the certification. [ETHICS RULE- Conduct Section]

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

This is just an example of my highest and best use, extraordinary assumptions, comparable data search, I/U statement, etc. that goes in every appraisal I do.

I started doing this when my trainee came back from the review of the 3 appraisals-that are now the subject of this complaint. I want the board to know that I took that review and the subsequent failure of her approval as an important learning experience for myself much less my trainee. I did research and took online seminars to improve my appraisals almost immediately after she returned from the meetings.

## Clarification of Intended Use and Intended User:

The Intended User of this appraisal report is the Lender/Client. The Intended Use is to evaluate the property that is the subject of this appraisal for a mortgage finance transaction, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form, and Definition of Market Value. No additional Intended Users are identified by the appraiser.

An estimated exposure time for the subject property would be 3 to 6 months.

I have performed(no) (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three year period immediately preceding the acceptance of this report

## Highest and Best Use:

The highest and best use of this property is considered to be single family residential as it exists. The properties surrounding the subject property are all residential in zoning, in look and in use. There is no activity of other land use in this development other than single family residential which would indicate a likely change in land use. The term 'highest and best use' considers 4 factors; is it legally permissible, physically possible, financially feasible and does it result in the highest value (ie. maximum productivity or highest return). The question that best answers the question of 'highest and best use' is 'What would the most probable buyer do with this property?' (1. Keep using the improvements as they exist; 2. Make modifications to what exists; 3. Demolish the existing improvements to obtain a vacant site.

## Extraordinary assumptions:

At the request of the client, this appraisal report has been prepared in compliance with the Uniform Appraisal Dataset (UAD) from Fannie Mae and Freddie Mac. The UAD requires the appraiser to use standardized responses that include specific formats, definitions, abbreviations, and acronyms. The appraiser attempted to obtain an adequate amount of information in the normal course of business regarding the subject and comparable properties. Some of the standardized responses required by the UAD, especially those in which the appraiser has not had the opportunity to verify personally or measure, could mistakenly imply greater precision and reliability in the data than is factually correct or typical in the normal course of business. Examples include condition and quality ratings as well as comparable sales and listing data. Not every element of the subject property was viewable (list if necessary) and comparable property data was generally obtained from third-party sources (list sources). Consequently, this information should be considered an "estimate" unless otherwise noted by the appraiser.

The appraiser is making the extraordinary assumption that the information gathered from the sources uses for this report (Maardata, Maar-MLS, County Assessor) are as stated on the day the information was obtained. The appraiser did make a physical inspection of the interior of the subject property(per the instructions) and is basing condition ratings on exterior appearance of the subject property. The appraiser did not make an interior inspection of the comparables used in this report and is basing condition ratings on appearance from street as well as description in their MLS listings. If any of these are proven to be inaccurate the appraiser reserves the right to alter conclusions.

## Cost Approach:

Marshall & Swift Residential Cost Handbook, Building Cost.net, with consideration given to local building trends used to estimate the subject property's replacement costs. The approximate physical depreciation calculated with the modified age/life method and deducted from the Cost Approach to value under the physical depreciation column. Typically cost estimates lag behind the actual impact on values realized in the market. No measurable functional depreciation was observed to be associated with the subject property at the time of this appraisal. No measurable

external depreciation was observed to be associated with the subject property at the time of this appraisal.

**Sources of Information:**

This appraisal is based on information gathered from public records, MLS data, Maardata, an interior and exterior observation of the subject property and exterior observation from street of comparable properties as well as any other sources specifically identified in this report. When conflicting information has been discovered the sources deemed to be the most reliable were utilized.

**Comparable Search Criteria:**

The search for comparables started with sales within 1 mile of the subject property, sold within the 90 days prior to the effective date of this report, and within 15% of the subject's GLA. The search was expanded to include sales within 180 days prior to the effective date of this report and within 20% of the subject's GLA. Search was expanded to zip codes 38138 and 38139 as far back as 12 months for a property with a similar guest unit.

**Licensing History:**

<b>Supervisor:</b>	Certified Residential	6/20/1996-Present
<b>Trainee:</b>	Registered Trainee	4/16/2012-Present

**Disciplinary History:**

**Supervisor:** (200500447, 200801287, 200902722 – Dismissed; 201102423 – Closed with Consent Order imposing corrective education; 201200328, 201301996 – Closed with Consent Order imposing \$500 civil penalty and corrective education courses)

**Trainee:** None.

**Reasoning and Recommendation:** The reviewer found that the inconsistencies throughout the reports diminish the reliability and credibility of the reports. The **Supervisor** has been disciplined before for significant violations of USPAP. As such, Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) 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 15 hour Residential Report Writing 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 Ms. Point. The motion carried unanimously.

**5. 2015004331**

This complaint was filed by an Appraisal Management Company and alleged that Respondent's report contained inaccurate/misleading subject improvements description, missing and unsupported adjustments, inappropriate comparable sale selection, and inadequate or misleading reconciliation of value.

Respondent sent a response stating that the tax records indicated that there were two dwellings on the property. The borrower specifically expressed that he did not want the manufactured home to be included in the appraisal because it was not his property. He did not want it included as collateral in the loan. Respondent stated he did the report stating specifically that the manufactured home and improvements were the personal property of a family member and given no value in the report. This type of arrangement is typical and common in this general market area and is not considered detrimental to value. The perimeter block foundation of the manufactured home does not touch or support the dwelling in any way, though it appears to be permanently affixed. Respondent stated the complaint is correct, in that he did not provide personal

photographs of the comparable sales and listings in the report, as required by the client's guidelines. Considering the distances, travel time, expense and photo quality, it was considered not productive. The MLS provides quality photographs and even more interior photos give the appraiser a true exposure to overall maintenance, condition, quality of workmanship, materials, and improvements.

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

- The appraiser failed to take on-site photographs of the comparables, which is a violation of work assignment. [Scope of Work Rule]
- The appraiser relied on the owner's statement that the manufactured home was owned by others. This should have been verified additionally via title, etc. [SR 1-4]

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

I have requested that my Real Estate Appraisers License be terminated as of 05/31/2015. There is an outstanding complaint currently in process with the commission. This complaint is primarily for none compliance with USPAP. The complaint is for my not complying with an AMC's guidelines which is translated as Scope of Work. The complaint was based on the property owner located on 17 Acres with his own single family residence not wanting his mother's newer double wide manufactured home and improvements being included in a loan. This additional dwelling and improvements was purchased by the mother and located within 50 yards of the county road on borrower's property. This additional dwelling was serviced by its own separate mail box, electric utility service, public water service, private septic system and phone service. All purchased and maintained by his mother. Access to the county road was via an long existing gravel driveway passing by the mothers residence located at the front to the borrower residence located at the rear of the property. In the report I did identify the mothers dwelling and considered it personal property belonging to a family member and clearly defined it as being given no value in the report. This did not satisfy the lender who wanted to include all improvements to the loan. This is what brings this complaint to the commission. I would suggest that the borrower should have some rights. This is not uncommon in the area and not considered detrimental to value. In this case the lender rules supreme and the appraiser will be punished. I would suggest that since no fraudulent actions were performed or intended that the commission's actions on this complaint would not satisfy any future resolutions or corrections. To pursue further action on this complaint does not benefit the Commission, the AMC or any continuing appraiser.

**Licensing History:** Registered Trainee 2/21/1997-5/27/1999  
Licensed RE Appraiser 5/28/1999-Present

**Disciplinary History:** (200500261-Dismissed)

**Reasoning and Recommendation:** Respondent has been an appraiser for over 16 years with no prior disciplinary action against him. Respondent has sent written correspondence to this office, requesting that his real estate credential be terminated as of May 31, 2015. His credential expired on that date in the normal course of business and he did not renew it. As such, Counsel recommends that this matter be **Closed with a Letter of Caution**, with regard to the two reviewer's conclusions listed above.

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

**6. 2015004771**

This complaint was filed by administrative staff for the Tennessee Real Estate Appraiser Commission after receiving a letter from FHA informing of HUD's removal with education imposed against the Respondent for violations of FHA guidelines and USPAP. This complaint involves two separate properties at two separate locations.

Respondent sent a response to the complaint stating that he had multiple conversations with FHA/HUD regarding these two reports over the course of 3 months. At the time of the conversations, Respondent was informed of a couple of deficiencies found by HUD, concerning these reports, which were not related to value, manipulation of data, misrepresentation of data, nor USPAP violations. Respondent has prepared many HUD reports prior to this random selection, having never received negative or positive feedback within the 7 years prior of being a HUD appraiser. Respondent stated that HUD preferred to see an excess land comment present, which was not provided as the first property had 2.66 acres present, and even though the second property had 14.48 acres present, it was not readily sub-dividable due to small entrance to the subject property and undeveloped land present behind subject, which would take some doing to clear, make an easement, and further subdivide. Respondent did not feel, given the specifics of the properties in question, an excess land comment was necessary. HUD did feel they were necessary and essentially suspended Respondent's HUD approved status for 6 months, based primarily on this comment not being present in either report.

## **Property #1**

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

- Unsupported and Unexplained Adjustments in the Sales Comparison Approach: Sales in the sales comparison approach are adjusted for site, gross living area, garage, fireplace, fence, and storage. The only statement made in the "Summary of Sales Comparison Approach" section of the report with regard to adjustments is, "*Adjustments made as needed.*" There is nothing in the report or in the workfile that supports any of the adjustments made. [SR 2-2(a)(viii); Record Keeping Rule (Lines 321-323)]
- Reconciliation: An insufficient reconciliation is found in the sales comparison approach to value. Four sales are used in the analysis with a wide range of adjusted values (approximately \$34,000, which equates to a 41.8% variance from low to high). The indicated value opinion is at the low end of the value range and Sales 1-2 are stated as being given the most weight; however, these sales represent a 41% difference in their adjusted sales prices. No reasoning is given as to why the lower of the two sales is actually given the most weight to support a low-end value opinion. [SR 1-6(a); SR 2-2(a)(viii)(Lines 732-734); SR 2-1(b)]
- The appraisal report states that the highest and best use is the present use as is currently improve, but there is no summary of the support and rationale for this opinion. 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. The opinion of site value is an opinion of market value which requires an opinion of highest and best use. [SR 1-3(b); SR 2-2(a)(x)]
- The appraisal identifies FHA-HUD as one of the intended users. The appraisal report indicates that the concrete block piers beneath the subject's manufactured home are dry-stacked without mortar. This does not meet HUD guidelines according to the Permanent Foundations Guide for Manufactured Homes. Even though the appraiser indicated the problem in the report, he went on to specifically state that "*the crawlspace meets minimum FHA/HUD guidelines,*" and appraised the property in it's as-is condition. [Competency Rule; Ethics Rule (Line 239-240)]
- HUD requires original photos of all comparable sales that were taken by the appraiser in order to show compliance to HUD's requirements for the appraiser to do a drive-by inspection of each sale. It appears that this requirement was not adhered to in this report. The appraiser appeared to use MLS photos of Comps 1-4. [Competency Rule; Ethics Rule (Line 239-240)]

## **Property #2**

- The inspection date, effective date of the appraisal, and the date of the report are all stated as 6.2.2014. The "Appraisal Order Details" page details the history of this assignment kept by the client. The history of the assignment indicates that the report was delivered to the

client on 6/5/2014. According to USPAP, the date of the report is the date that the report is submitted to the client. In this instance, the correct date of the report is 6/5/2014. [SR 2-2(a)(vi)(FAQ#137)]

- Sales in the sales comparison approach are adjusted for site, age, gross living area, garage, fireplace, fence and storage. This statement appears in the appraisal report in the "Summary of Sales Comparison Approach" section: "*Adjustments made as needed.*" This statement appears in the appraisal report in the comments section beneath Comparable Sale #4: "Paired sales analysis was used to derive the adjustment made on the adjusted grid." There is nothing found in the report or in the workfile that supports these statements or any of the adjustments made. [SR 2-2(a)(viii); Record Keeping Rule (Lines 321-323; Ethics Rule (Line 239-240)]
- An insufficient final reconciliation is found in the report. The indicated value by the sales comparison approach is \$129,000 and the value indication by the cost approach is \$117,515, a difference of almost 10%. No reasoning is provided to analyze and explain this difference. [SR 1-6(b); SR 2-2(a) (viii) (Lines 732-734); SR 2-1(b)]
- The appraisal report states that the highest and best use is the present use as is currently improved, but there is no summary of the support and rationale for this opinion. In addition, an opinion of site value is provided in the cost approach of the report but there is not opinion given for the highest and best use of the site as-vacant. The opinion of site value is an opinion of market value which requires an opinion of highest and best use. [SR 1-3(b); SR 2-2(a)(x)]
- The subject assignment is for FHA insurance purposes and must therefore be performed in accordance with FHA guidelines. The property has 14.48 acres. The appraiser failed to provide comments regarding excess land and any potential impact it may have on the analysis and valuation of the property.
- The appraisal identifies FHA-HUD as one of the intended users. The appraisal report indicates that the subject is a manufactured home and that the perimeter foundation is aluminum striking. HUD guidelines require a perimeter foundation to have footings that extend below the frost-line; this does not appear to be the case with the subject property. [Competency Rule; Ethics Rule (Line 239-240)]
- HUD requires original photos of all comparable sales that were taken by the appraiser in order to show compliance to HUD's requirements for the appraiser to do a drive-by inspection of each sale. It appears that this requirement was not adhered to in this report. The appraiser appeared to use MLS photos of Comps 1-4. [Competency Rule; Ethics Rule (Line 239-240)]

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

- Entire work file for both reports regarding specifics of adjustments or other notes specific to these complaints could not be reproduced due to a computer crash on appraiser's main system and secondary laptop in the months prior to this complaint. Appraiser was able to retain main reports provided due to back up provided from software company, although all other data concerning these reports was lost in said crash and was unable to be recovered per computer company that replaced hard drives on both computers.
- In regard to potential USPAP violations, the adjustments were based on Market Extraction Method in addition to Paired Sale Analysis as stated above the cost approach where site value was shown support. Although not present within report {appraiser has since time of this appraisal included this breakdown on most files due to questions that arise), these adjustments break down as thus based on appraiser's experience within the rural market in question: Square foot adjustment made at \$15 per foot or roughly 40-55% of potential cost as appraiser was trained to do in 5 years of serving as a trainee, Porch/Fireplace adjustments made at \$1500 or again a similar percentage 30-55% of potential cost to construct, Patios/Decks/Storage Buildings - with permanent foundation/Fence/Shed (typically a 3 sided structure with a roof) adjustments made at \$1000, Site adjustments made at \$1500 per acre difference or roughly 10-20% of value as larger sites typically are worth less per acre within the market, Carport adjustments made at \$1000 per bay difference, Garage adjustments made at \$2500 per bay difference {although this number has

been made at an increased number as cost increases for these buildings), Barn adjustment made at \$2500 as only contributory in nature and not shown a full 30-55% of cost due to contributory as some homeowner's desire them and others tear them down, and Stoop adjustments made at \$500 - all made in appraiser's opinion as the market views them in desirability and adjusted at a percentage of cost as cost is not necessarily an indicator of value.

- In regard to reconciliation of value, the limited amount of market data for manufactured homes within this rural market had to be extended 3-4 counties just to have enough market data to complete a competent appraisal. The value range is obviously greater than desired, but very typical for manufactured homes within the rural market considered and sales on the higher range typically as in this case with larger site size properties were necessary to complete an appraisal at all. As stated on page 3 of the URAR, com parables 1 & 2 were shown the most weight within the reconciliation as the closest and most similar in site size (smaller site sizes), while com parables 3 & 4 were provided for further support but shown less weight due to larger site sizes. It is evident that smaller site size properties bring a lower price within the market - which was not stated but is clear from what little market data was available for this property type. The rationale for this opinion was in appraiser's opinion explained in the weighted comparable paragraph, although possibly not this clearly fairly clearly.
- As stated on prior rebuttal in regard to dry stacking block without mortar, despite several areas within report "strongly suggesting" a structural engineer's inspection of the foundation - appraiser neglected to mark "subject to" this item and has been suspended by HUD for this oversight for the last 4.3 months. This oversight has cost appraiser much work in the last few months and appraiser even have been removed from several solid customers approved list over this matter with HUD currently serving suspension. Appraiser will be eligible to re-apply to HUD in a matter of weeks and will no longer overlook such items in the future.
- MLS pictures and some stock photos from prior files were utilized within this report as they most accurately represent the sales at the time of the sale. Any new additions or tear downs: i.e.: garages, fences, barn improvements would indicate inaccuracy in reporting and would open numerous questions about said items from each agency reviewing appraisal file. Original photos were on file and able to be tracked down from older camera since file was lost when computer crash occurred. These have been provided with this rebuttal. HUD made no mention of this when suspending appraiser for 6 months.
- In regard to potential USPAP violations, Appraiser was taught to use date of inspection for date of report in the case something were to happen to the property in the day or 2 it takes to work files up sometimes. Appraiser has made steps to comply with USPAP regarding this despite the liability it leaves for something to happen to the subject property since reviewing said standard.
- The adjustments were based on Market Extraction Method in addition to Paired Sale Analysis as stated above the cost approach where site value was shown support. Although not present within report (appraiser has since time of this appraisal included this breakdown on most files due to questions that arise), these adjustments break down as thus based on appraiser's experience within the rural market in question: Square foot adjustment made at \$15 per foot or roughly 40-55% of potential cost as appraiser was trained to do in 5 years of serving as a trainee, Porch adjustments made at \$1500 or again a similar percentage 30-55% of potential cost to construct, Patios/Decks/Storage Buildings - with permanent foundation/Fence/Shed (typically a 3 sided structure with a roof)/Fireplace adjustments made at \$1000, Site adjustments made at \$1500 per acre difference or roughly 10-35% of value as larger sites typically are worth less per acre within the market, Age adjustments made at \$200 per year as market dictates for properties greater than 10 years in difference - although little difference can be easily obtained within the market as most of these sales sell for the privacy of the site and age has little impact in market on value, Carport adjustments made at \$1000 per bay difference, Garage adjustments made at \$2500 per bay difference (although this number has been made at an increased number as cost increases for these buildings), Barn adjustment made at \$2500 as

only contributory in nature and not shown a full 30-55% of cost due to contributory as some homeowner's desire them and others tear them down, Large barn adjustments made at \$5000 due to greater cost for larger structure, and Stoop/Security adjustments made at \$500 - all made in appraiser's opinion as the market views them in desirability and adjusted at a percentage of cost as cost is not necessarily an indicator of value.

- As for cost approach, comments under cost state: "Cost approach not always applicable on manufactured homes over 10 years of age, completed per lender request." The 10 years was a typo that should have read 2-3 years of age which is accepted within the market as depreciation on manufactured homes is quicker than stick built homes. The bottom of page 3 states the sales comparison approach to value was the most accurate indicator of market value. Cost and Income considered but not utilized - again in cost's case completed per lender request while shown no weight as stated in both places.
- In regard to reconciliation of value, the limited amount of market data for manufactured homes within this rural market had to be extended 3-4 counties just to have enough market data to complete a competent appraisal. The value range is obviously greater than desired, but very typical for manufactured homes within the rural market considered and sales on the higher range typically as in this case with larger site size properties were necessary to complete an appraisal at all. As stated on page 3 of the URAR, com parables 1 & 3 were shown the most weight within the reconciliation as the closest and most similar in site size (larger site sizes), while com parables 2 & 4 were provided for further support but shown less weight due to difference in site sizes but provided to show not uncommon for this type of site size is not untypical in these rural markets. It is evident that larger site size properties bring a higher price within the market -which was not stated but is clear from what little market data was available for this property type. The rationale for this opinion was in appraiser's opinion explained in the weighted comparable paragraph, although possibly not this clearly fairly clearly.
- Per excess land comment not present, all comparables provided that over 6 acres present up to 20 showing this rural area accepts large site size manufactured homes within the market just as small tract properties. While HUD has recently updated the handbook to include language to reduce larger tracts to more typical tract size - referred to as excess land appraiser is not comfortable deviating from the deed data recorded as public record at county courthouse. Excess land in these rural markets are used for privacy, recreation, and gardening and are considered normal for the rural market. A comment was not made and HUD suspended my HUD license for 6 months for this omission.
- As stated on prior rebuttal in regard to vinyl skirting on foundation, despite several areas within report requiring a structural engineer's inspection of the foundation- appraiser believed the Structural Engineer would hold the file if he was actually inspecting to HUD standards - but clear he is not inspecting to HUD standard and appraiser has been suspended by HUD for this oversight for the last 4.3 months. This oversight has cost appraiser much work in the last few months and appraiser even have been removed from several solid customers approved list over matter with HUD currently serving suspension. Appraiser will be eligible to re-apply to HUD in a matter of weeks and will no longer overlook such items in the future.
- MLS pictures and some stock photos from prior files were utilized within this report as they most accurately represent the sales at the time of the sale. Any new additions or tear downs: i.e.: garages, fences, barn improvements would indicate inaccuracy in reporting and would open numerous questions about said items from each agency reviewing appraisal file. Original photos were on file and able to be tracked down from older camera since file was lost when computer crash occurred. These have been provided with this rebuttal. HUD made no mention c f this when suspending appraiser for 6 months.

<b>Licensing History:</b>	Registered Trainee	11/13/2002-10/28/2007
	Certified Residential	10/29/2007-Present

**Disciplinary History:** (201200545-Closed with Letter of Warning – Failing to support site value/cost approach; 201301758 – Closed with Consent Order requiring a \$1,000 civil penalty and Residential Site Valuation & Cost Approach course)

**Reasoning and Recommendation:** The reviewer found several deficiencies with Respondent’s report, including violations of the Ethics Rule and the Competency Rule. Respondent has had prior disciplinary action taken against him, which required a significant civil penalty and continuing education. As such, Counsel recommends the authorization of a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) to be satisfied within thirty (30) days of execution of the Consent Order and a Fifteen (15) hour USPAP course and a thirty (30) hour Basic Appraisal Procedures course to be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms to be settled by Consent Order or Formal Hearing.

**Vote:** Dr. Mackara made a motion to accept counsel’s recommendation. This was seconded by Ms. Johnson. The motion carried unanimously.

**7. 2015004931**

This complaint was filed by an Appraisal Management Company and alleged that the Respondent was not geographically competent in the area of the subject, and he failed to gain the requisite knowledge to be able to complete the assignment within the scope of work cited in the original order.

Respondent sent a response to the complaint stating that the claims are false and contradicted by the evidence. The Respondent attached an email exchange he had with an employee concerning their request that he perform two compliance reviews for \$70.00. The email states he can, “do both of these and have done about 100 of these for others over the past few months. I am not geographically competent in this area which isn’t necessary if these are just technical reviews with no opinion of value. However, I do have access to info in these 2 counties.” He indicated the client indicated that he was “good to go” as long as he had the same data sources as the original appraiser, without specifying what those sources were. The respondent further stated for the purpose of a compliance review there is no requirement to have access to identical sources as the original appraiser.

USPAP FAQ 293 explains that if the appraiser is “engaged to determine whether or not the appraisal report under review complies with certain guidelines or standards, geographic competence is not typically relevant.” He further clarified that he could not confirm or deny that the original appraisal’s UAD ratings were accurate (C5 in the report) based on this data as he did not have access to the original appraiser’s work file and did not know if he had data not referenced in his report which confirmed this assertion. Agent stated that perhaps he needed further USPAP education and that she didn’t believe that if he had been clear with agent that this report would have been assigned to him. She said she would get back to me after she spoke with the original agent. The Respondent denies having done any wrong in this matter.

<b>Licensing History:</b>	Registered Trainee	4/21/1998-6/19/2008
	Certified Residential	6/19/2008-Present

**Disciplinary History:** (200707322-Closed)

**Reasoning and Recommendation:** The reviewer found that Respondent utilized the best information available when doing his report, and, therefore, did meet the requirements of USPAP. The reviewer also found that Respondent did do his due diligence in notifying the AMC prior to accepting the assignment. Respondent was being honest and forthright and was not attempting to mislead or violate USPAP. Thus, 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. Walton. The motion carried unanimously.

## **8. 2015004961**

This complaint was filed by a consumer and alleged that the Respondent over-valued his property that he purchased on September 11, 2013. The complaint alleged that the appraisal of \$370,000 in July 2013 was used to support the purchase price of \$342,705 (the sale closed on September 11, 2013). However, subsequent appraisals conducted in September 2014 and February 2015 both indicated a value of only \$340,000. As the market and comparable sales do not indicate a drop in property value of over eight percent (8%) in a year on a newly constructed property, the original appraisal is vastly in error and indicates either gross incompetence or collusion with the lender and builder to support an inflated sale price.

Respondent sent a response to the complaint stating that Complainant's complaint appears to stem from two subsequent appraisals done in September 2014 and February 2015. Respondent contends that while Complainant forms his complaint on subsequent appraisals, he has not provided these reports with this complaint and the credibility of the reports are unknown. At the time of sale of the subject, homes with similar quality features, level of upgrades and size were supporting values above the contract price. In the complaint, Complainant's allegations of incompetence and collusion are baseless. Respondent stated that throughout the process, she has maintained appraiser independence and the report has been completed conforming to all requirements set out by the State, USPAP, and the Appraisal Institute.

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

- Listing/Sales History: The appraisal does not adequately discuss the prior listing history of the subject property. The appraisal states that there was no other listing of the subject except #1446015, however, research showed that the subject was also listed on 9/7/2012 in MLS #1392359 for \$286,875 and had been on the market for 85 days and expired on 12/1/2012. It was relisted on 4/26/2013 for \$341,715; well after the contract date and subsequent change orders were written.
- Cost Approach: The following violations were observed: The work file information provided contained no comparable sales or listing sheets or statistical breakdown sheets for supporting the opinion of site value provided. The work file did contain 2 pages from Marshall & Swift Residential Handbook to support the cost approach estimates, but lacked information regarding the garage cost. Based on a current Marshall & Swift cost for similar size garages, the applied amount of \$17 /sf appears to be low compared to the current manual which show between \$26/sf and \$28/sf based on a rating of "Good," as stated by the appraiser.

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

- I have reviewed the reviewer's comments and agree that the report has two potential violations of USPAP. The potential violations did not affect the credibility or the outcome of the report thus I do not feel they warrant any disciplinary action.
- The first potential violation is a complete prior listing history of the subject property. The subject property was under construction during the listing period and also was a presale. The two prior listings that were not commented on were not the same house that was actually built. I do agree there should have been a comment on these other listings however they did not affect the outcome of the report.
- The second potential violation is incomplete work file information to support the completeness of the Cost Approach. As stated by the reviewer there was one Marshall & Swift cost page missing for determining the garage breakdown and no specific page labeled for supporting the site value. The missing page should have been in the work file and a page outlining the lot sales should be in the file however neither affected the outcome of the report. I do have the Marshall & Swift Manual in my office and I keep a separate file of lot sales for each subdivision.

- The report has two potential violations of USPAP but I feel these are minor technicalities that do not warrant disciplinary action because they did not affect the outcome of the report. I have also taken a USPAP update class within the last six months and I have changed several business practices in my office that has improved accuracy and quality of the reports.

**Licensing History:** Certified Residential 4/1/1993-Present

**Disciplinary History:** (200100968-Dismissed)

**Reasoning and Recommendation:** Respondent has been a certified residential appraiser for over twenty-two (22) years with no prior disciplinary action against her. As such, Counsel recommends that this matter be **Closed with a Letter of Caution regarding future appraisals.**

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

## **9. 2015005561**

This complaint was filed by a certified real estate appraiser and alleged that Respondent's report has many inconsistencies, and there is no reconciliation as to why the appraised value is \$67,000 with list prices and sales prices ranging from \$18,000 to \$42,000.

Respondent filed a response to the complaint stating that he did, in fact, complete an appraisal on the subject property and that the intended use of the appraisal was "subject to" after repairs value. The appraisal was completed on a URAR form at the verbal request of the client. Comparable sales were selected based on market knowledge of other sales that were renovated like the subject was to be. The report was completed for the client only. No other authorized use was permitted unless written or verbal authorization was obtained for the appraisal report to be released to any other potential user. No such authorization was obtained. The appraiser that submitted the complaint completed an appraisal on February 19, 2015, which was done "as is". That is an issue, since a "subject to" and "as is" appraisal would render two different values. No follow up inspection was completed by Respondent to verify if the repairs had ever been completed. Furthermore, Respondent states that he has not had the opportunity to review the appraisal that the Complainant completed on February 19. Respondent contends that the complaint states that the "as is" value would be \$20,500. Of course the "as is" value would be lower than the one Respondent arrived at since his was "subject to". Supporting documentation will show that the price range in this area is from \$5,000 to \$74,900, and that is MLS information only. It does not include sales/comps from local public records system. Supporting documentation will also show a limited number of sales/comps from which to render a reliable market trend conclusion. No time adjustment was applied due to a limited data pool. There is a comment on this in the original appraisal report.

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

- **Intended Use:** Based on the information provided in the appraisal report under review, *"The intended use is to evaluate the property that is the subject of this appraisal for an "after repairs" value, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form, and Definition of Market Value."* This information is inconsistent with the intended use provided on page 4 of 6 of the FNMA/URAR form pertaining to the intended use, which states the intended use is for a mortgage finance transaction. The use of this form would seem to be an inappropriate format for the valuation assignment, based on the client and intended use as stated in Respondent's report, without sufficient alteration and explanation. [COMPETENCY RULE; SCOPE OF WORK RULE]
- **Sales History:** Information found in the report is inconsistent. On page 2 of 6 on the form the following comments were found. *"To comply with USPAP Standard Rule 1-5(a) & (b), the subject property is not currently listed for sale, nor has it been within the last 12 months."* This statement is inconsistent with the statements provided on page 1. The report further

states, "Furthermore the subject property has not been sold within the last 36 months." This statement is incorrect and contradictory with other statements found in the report. [SR 1-1(b)(c); SR 2-1(a)(b)]

- Site: The specific zoning classification was not provided in the report and the zoning description was stated to be "Residential Single Family District," and that the subject property is considered in "legal" zoning compliance. With the zoning classification left blank, and no comments or analysis provided for explanation, there is insufficient information to indicate that the zoning is legal. [SR 1-2(e)(i); SR 2-2(a)(iii)]
- Sales Comparison Approach: The sales utilized in the report under review were all located in subject's general area and are all investor sales. Investor sales require verification to have a good understanding of the motivations of the participants. No commentary was found addressing verification of the sales used. No comments or indications were found that the Respondent had verified the sales with a primary participant of the sales used. [SR 1-1(a)(b)(c); SR 1-4(a); SR 2-2(a)(viii)]
- There were no adequate reasoning or analysis found in the report, or subsequent workfile to support these adjustments.
- Site Value/Cost Approach: No supporting information was found in the report or the workfile information provided, indicating that the opinion of site value was completed by the allocation method or any other appropriate appraisal method or technique. There was no supporting information found in the report or workfile to indicate that the cost estimates are market oriented. [SR 1-4(b)(i); SR 2-2(a)(viii)]
- Reconciliation: The reconciliation in the report does not reconcile quality and quantity of data used in the approaches to value. The applicability and suitability of the approaches used to arrive at the value conclusions have not been adequately reconciled. [SR 1-6(a)(b); SR 2-2(a)(viii)]

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

- Regarding the intended use: I thought placing this comment in the "additional comments" section of the USPAP addendum would override the intended use section of limiting conditions.

*Clarification of Intended Use and Intended User:*

*The Intended User of this appraisal report is the Client only. The Intended Use is to evaluate the property that is the subject of this appraisal for on "after repairs" value, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form, and Definition of Market Value. No additional Intended Users are identified by the appraiser.*

- RE: Sales history.  
The prior listing information is on page 1 of the URAR and prior sales history of the subject is found on page 2 of the URAR. The only thing I missed was transferring the date from page 1 to page 2, which was an oversight on my part. The information is there but just not perfectly reported. That is my fault for not being more careful. I merely forgot to edit out the word "not" from the sentence prior to all the sales history shown, my mistake. But again the data is there. I know better and it was just an oversight on my part. In fact, I take great pride in my proper reporting of listing and past sales of subject and comparable sales. I taught a USPAP class for the University's continuing education dept. for several years, until my wife got cancer. In fact, I take McKissock's online USPAP classes because it requires mastery of each section prior to moving on and a final exam is required. I do this because I learn more than sitting in a classroom for 7 hours then walking out.
- Site: The subject is zoned R-6. Why this wasn't in the report, I have no idea. Did not harm the user.
- Sales Comparison approach: I typically add the following comment to all my reports.  
*All comparable sales used in this report were verified by two different data sources.*  
I don't know why it's not in report. The above comment is **now** automatically in each report.
- Regarding adjustments: I have appraised many, over 50, homes in the subject's immediate area. Development of adjustment is/was obtained over the course of doing those appraisals. Even though, support for adjustments may not be in workfile, over the course of doing all

those appraisals, a pattern was established for proper adjustments and it was followed. In fact the appraisal had minimal adjustments, GLA, garage/carport and porch/patio/ deck. And only 1 bathroom adjustment on comp #1. And all adjustment percentages were very low.

- Site value: I have used allocation method many times. And have proven land values in the subject's immediate area many times. The fact that proof is not in my work file doesn't mean the value is incorrect. I have included two sales in the general area that support the land value in the report.
- Reconciliation section: I have made the same basic comment in most of my reports. When it applies. When more detail is required, then more details are commented on. In this case, minimal commentary was appropriate.

#### Other facts and comments:

I changed appraisal software in Dec 2014. The new software has a much better E&O review of each report. It points out data that is missing and etc. The old software did not do that. That is a huge step in making sure that blank "fields" are not blank. I guess looking at the same report for several hours leads to overlooking fields that I thought were completed and were not. That is my fault but it was not intentional. While sloppy on my part, no harm was done to the user of the report. The appraisal was placed on the URAR because the user of the report was/is well versed in appraisals and knows what is in them. This was a private appraisal, with no other intended user. The following comment is now in all private appraisals.

#### *Clarification of Intended Use and Intended User:*

*The Intended User of this appraisal report is the Client only. The Intended Use is to evaluate the property that is the subject of this appraisal for an "after repairs" value, subject to the stated Scope of Work, purpose of the appraisal, reporting requirements of this appraisal report form, and Definition of Market Value. **No additional Intended Users are identified by the appraiser.***

*Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, to protect families from exposure to lead from paint, dust, and soil. Section 1018 of this law directed HUD and CPA to require the disclosure of known information on lead-based paint and lead-based paint hazards before the sale or lease of most housing built before 1978.*

All future appraisals for a private individual will be placed on a GPAR form. In fact, that has already been done several times since March 2015 when the first complaint was filed against me.

It was never my intent to harm anyone, the client or myself. Yes the report has some flaws, but I never intended to harm the client. Does the omission of a few items mean that I intended to mislead the client, no it does not. It meant I did not proof read the report carefully. I have lost many nights sleep worrying about this and it has weighted heavily on my mind. I take great pride in my work. In fact, many appraisers in the Memphis area call "me" for help and have me answer their questions. I'm an approved review appraiser for Fannie Mae and I'm a good appraiser who had a bad day. I'm not perfect nor is the next appraiser either. I'm not saying there weren't some mistakes in the report, what I am saying is that I'm not perfect. No one is.

Several steps have been implemented since March 2015. All private appraisals will be on a GPAR form, new appraisal software was purchased in Dec 2014 that eliminates the blank fields and has a fantastic E & O review of each report. Furthermore, I'm adding comments in all reports that better explain the appraisal process and my workfiles have even more info in them.

In the nearly 24 years I have been appraising properties, I've had only two complaints. One was several years ago and the State found my work to be "just fine" and the value was supported, and this one. I'm very careful on who I do appraisals for and what I appraise. I aim high on all my reports, I just think I had a bad day. Don't know why! But I can assure you that these past 3-4 months have really opened my eyes to better detail on private appraisals. My AMC, Fannie Mae and other lender work is spot on. Ask them, they'll tell you. I'm good. I can promise you this that since March I have proof read every report, ran the E & O with the new software and retrained myself to produce an even more creditable report and workfile. Not trying to be funny, but I've lost weight because of the worrying over this issue. Not a good way to lose weight but a valuable lesson on vulnerability.

The original report was completed "subject to", for the client's personal use, I never intended or thought that the report would be passed around for another party to examine for a mortgage

transaction. In fact, the same home was appraised by another appraiser and they came in a few thousand dollars higher than me. I'm a conservative appraiser who has lost work because I'm conservative. That's fine by me. I'm a one man shop who's just trying to do a good job to support his family.

Regarding the future, if the State finds that a penalty is in order, please keep in mind that I have to renew my Mississippi license in July and will be taking the on line McK1ssock USPAP course again. If the state says for me to take USPAP again, would it possible to use that course as fulfillment of said penalty. I hope so.

Regardless of the States ruling, I have punished myself every day since March. I take each appraisal seriously and each are my "babies". I have learned a very tough and valuable lesson. It will not be forgotten.

**Licensing History:** Certified Residential 1/6/1994-Present

**Disciplinary History:** (200314083-Dismissed)

**Reasoning and Recommendation:** Respondent has been a certified residential appraiser for over twenty-one (21) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with a Letter of Caution regarding future appraisals.**

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

#### **10. 2015006901**

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property by misreporting the square footage. The complaint alleged that three appraisals were prepared by Respondent. The property has not changed since the house was constructed, yet the square footage changed at every estimate.

Respondent sent a response to the complaint stating that the information for the first appraisal is not available because it was completed by Respondent's son in 2009 and is beyond the record keeping provisions of USPAP. The second appraisal was a 2055 FNMA drive-by appraisal (completed 5 years ago) and the square footage was based on a lender required verifiable record (tax information) which reflected the 5,056 square feet referenced by Complainant. Also, being in a different market era, there were reasonable sales available to support the value conclusion at that time. The third appraisal was a recent FNMA appraisal which required an interior inspection and measurements. The result of Respondent's measurements produced a significant difference from the tax records (which were clearly incorrect in their reporting). Also, being 5 years after the initial drive-by, available market data varied significantly. Respondent stated he used all available comparables of reasonably similar properties within the scope of known lender specific guidelines in forming his opinion.

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

In the reviewer's opinion, there are no material issues in the Uniform Residential Appraisal under review. USPAP was reasonably followed in the preparation and reporting of the appraisal. The analyses are appropriate and the opinions and conclusions are credible within the context of the requirements applicable to the work performed. With regard to the major issue raised in the complaint, which is the difference in the square foot living area of the subject dwelling, the reviewer is of the opinion that the gross square foot area was correctly reported in both appraisal reports considering the data sources.

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

**Disciplinary History:** (201300796 - Closed with Letter of Caution)

**Reasoning and Recommendation:** Respondent has been a certified residential appraiser for over

twenty-three (23) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with no further action.**

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

#### **11. 2015007971**

This complaint was filed by a consumer and alleged that Respondent provided an inaccurate report and reported black mold, which caused a delay with closing. In addition, the Complainant alleged that he has to pay for air quality tests to prove the Respondent's unqualified observation wrong.

Respondent sent a response to the complaint stating that there were no obvious signs of updating in the kitchen. The borrower stated that there were no improvements to the kitchen. There was no evidence of any energy efficient improvements. The property included a dwelling with no attached garage. There were 2 buildings that were used for storage for socks sold by the owner. One of the buildings included a 12x40 space with a gravel floor per one of the workers. Respondent did not identify this as a garage and gave it no consideration as a garage because of its location. Respondent stated that she identified a fungus and supplied two pictures in the report. Respondent stated that she stated she was not an expert in the area and did not know if this posed any risks or hazards to the property or its inhabitants. Respondent recommended that the client get a professional inspection. She did not make an observation beyond the fact that a fungus was there and verified it with pictures. Respondent stated that it should be noted that the borrower states that the lender is using this appraisal to make the loan. The closing has only been delayed. Respondent stated that she strongly felt that the client should be made aware of the situation to determine if they wanted to take any action.

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

A review of the appraisal report did not reflect any apparent violations of USPAP.

**Licensing History:** Certified Residential                      4/6/1994-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** Respondent has been a certified residential appraiser for over twenty-one (21) years with no prior disciplinary action against him. As such, 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 Ms. Point. The motion carried unanimously.

#### **NEW BUSINESS**

Chairman Johnstone then welcomed guests from the Appraisal Foundation, the Appraisal Institute, AARO, IRWA, the TN Appraisers Coalition, TDoT and the American Society of Appraisers to the meeting. He then turned the meeting over to Director Avers to present the AMC Federal Law update and follow up from the AARO meeting.

Director Avers informed the board that the recently issued Federal rules for AMC's would be in effect from August 10<sup>th</sup>, 2015. These laws would necessitate changes to the current TREAC laws and rules so she had invited Mr. Danny Wiley to offer his expert opinion on their impact. Mr. Wiley, Chief Appraiser of Service Links, one of the largest independent AMC's that process several thousands of reports daily with a fairly large compliance staff on board, said they monitor federal laws regarding AMC's and try to anticipate changes to policy, state by state. He was concerned about how Tennessee would be implementing audit policies for AMC's and strongly encouraged the board members to work with other states to make them as uniform as possible across states. He added that the main concern was that the audits not get too onerous, time consuming and/or expensive to undertake.

## AI PRESENTATION

### VALUATION STANDARDS OTHER THAN USPAP (FOR NON-FRT ASSIGNMENTS)

Chairman Johnstone then recognized Mr. Lance Coyle, 2015 President of the Appraisal Institute (AI), who had requested time on the agenda with the Board.

**Mr. Lance Coyle** thanked the Board for allowing him to make a presentation and mentioned he was there with **Mr. Leslie Sellers**, AI president from 2010 and **Mr. Scott DiBiasio**, current AI manager for State and Industry Affairs. He hoped his presentation would open a discussion with the Tennessee Real Estate Appraiser Commission on updating and modernizing the current Tennessee appraiser regulatory system in place. In his presentation he mentioned that AI was one of the largest real estate education providers and text book publishers with over 22,000 members, an organization that had been involved in setting standards for appraisal practice for many decades. He hoped that Tennessee would amend the current appraiser laws and regulations to allow appraisers to perform real estate valuations for non-federally regulated transactions, using nationally recognized and highly regarded standards of valuation practice, as an alternative to the Uniform Standards of Professional Appraiser Practice (USPAP). He followed up with many of AI's specific views and arguments as to why this should be considered towards allowing, but not requiring USPAP, for all but federally related transactions.

Chairman Johnstone then invited other visitors at the meeting to present their views on Mr. Coyle's presentation on behalf of the Appraisal Institute.

**Mr. David Bunton**, President of the Appraisal Foundation and senior staff member for the last 25 years, was recognized by the Chair. In his presentation he mentioned that the Appraisal Foundation was not a membership-based trade association but rather a non-profit organization of organizations, and that almost 100 organizations representing appraiser practitioners, users of appraisal services and government regulators were currently affiliated with the Foundation. In his presentation he mentioned that what made the Foundation unique was the Congressional authority it received in 1989 that allowed it by an act of Congress, to:

- 1) establish the education and experience qualifications to become a state licensed or certified real estate appraiser,
- 2) develop the licensing and certification exams used by all of the states and territories,
- 3) author the generally recognized valuation standards in the U.S., the Uniform Standards of Professional Appraisal Practice (USPAP).

He mentioned that for the past twenty five years not one of the 50 states and five territories that license and certify real estate appraisers has adopted another set of valuation standards in addition to USPAP. They had not done so because it is not necessary, since USPAP was not restrictive and in fact was developed to allow great flexibility for appraisers to perform all types of appraisal assignments. The only thing that different was that the Appraisal Institute adopted its own set of valuation standards last year and had subsequently launched a campaign at both state and national level to have their standards adopted. This was not the market place, but rather one trade association, that was calling for this change.

He further mentioned that of all valuation standards, only USPAP has been proven to be enforceable in federal courts, state courts and administrative law proceedings for the past quarter century without issues and it has become deeply embedded in the legal system.

USPAP was recognized globally and is considered one of the best sets of domestic valuation standards. In addition, the Foundation had been working closely with the International Valuation Standards Council to ensure that there is harmonization between USPAP and the International Valuation Standards (two press releases).

Unlike standards offered by a trade association, USPAP is written not to accommodate the wishes of members but rather to ensure public trust and is developed in a very transparent matter. All proposed changes are publicly exposed for comment, comment letters are posted on the website and public comment is received through public meetings held around the country.

He felt that the introduction of additional standards will only further tax the already limited appraisal oversight and enforcement resources of the Tennessee Real Estate Appraiser Commission. Several weeks ago at the AARO Spring Conference here in Nashville, which many of you attended, the Foundation polled the over 170 state appraiser regulators from over 30

jurisdictions in attendance, and asked if there was any interest in having to enforce an additional set of valuation standards. Not one individual polled supported the idea. Their concern was the possible impact it could have on reciprocity, temporary practice and accounting for experience, as only USPAP experience can count towards the experience requirement.

In addition, when a similar proposal was being considered in California, the Appraisal Subcommittee wrote the state legislature to express its concern about the possible impact it could have on enforcing appraisals for federally related transactions.

In conclusion he mentioned that the Foundation was unaware of any organization that supports the Appraisal Institute's initiative, but were aware that dozens of organizations, however, did support one set of valuation standards. These included such national appraisal organizations as the American Society of Appraisers (ASA), National Association of Independent Fee Appraisers (NAIFA) and the American Society of Farm Managers and Rural Appraisers (ASFMRA). Also, several state appraiser coalitions, including those from South Carolina, North Carolina and California support one set of valuation standards.

In addition, many users of appraisal services were looking for more uniformity, not diversity in valuation. Morgan Stanley and the National Association of Realtors are two examples of large users of valuation services who support one set of standards so it appeared that the Appraisal Institute stands alone on this proposal, which should give this commission serious pause.

The Chair then recognized **Ms. Maggie Hambleton**, Vice Chair of the Appraisal Standards Board of The Appraisal Foundation, who presented her views on the Appraisal Institute's proposal. She felt she was in a somewhat unique position in as much, as in addition to serving as a member of the ASB, she was also an SRA member of the Appraisal Institute and had been for the last 28 years. She had been active on committees of AI including service on their Standards Committees and served on the OH Appraisal Board for approximately 8 years, including being its Chair.

She placed on record her response to some of the points that AI had printed and made available to the public in their quest to change the existing state law relating to appraisal standards. These points were under the heading. 'Why is this legislation needed' which in her opinion contained many explanations regarding USPAP that were inaccurate. Her views were:

The first sentence under this heading ('Why is this legislation needed') indicates that Appraisers have identified many problems with USPAP that impact their ability to perform appraisal services for non-federally related purposes in an effective and efficient manner that meets the needs of their clients. However, no such problems were identified by the Appraisal Institute and no examples of situations were provided.

The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and is not misleading. The Appraisal Standards Board promulgates USPAP for both appraisers and users of appraisal services. The responsibility of protecting overall public trust places ethical obligations on those who complete appraisal assignments.

USPAP is not restrictive and was developed to allow great flexibility in performing all types of assignments. USPAP sets the minimum threshold for what is needed to produce a credible valuation (assignment results). What professional appraiser would actually want to do less?

Regarding the six points contained in the AI handout, she offered the following:

1. Rules versus Principles – Principles are not a realistic approach to Standards from a professional standpoint where enforcement is an issue, along with reciprocity, and temporary practice. USPAP is a set of principles-based rules rather than simply principles. Principles alone cannot be enforced. Unless principles contain requirements or prohibitions there would be no way to decide if one complied with the Principle.

With the advent of the SCOPE OF WORK RULE in 2006, USPAP became more flexible, and that flexibility has continued with each update. USPAP indicates under the Standards Rules in which flexibility is appropriate apply "when necessary for credible results". USPAP does not dictate the form or format of appraisal reports, those are often assignment conditions imposed by clients, and would apply whether the appraiser was complying with USPAP or any other standards.

2. Standards vs Methodologies –The Advisory Opinions are NOT enforceable parts of USPAP. Although bound in the same publication for convenience, they are separated and identified in a foreword as well as other parts of the publication as a form of guidance issued to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. Guidance provided in the AO does not represent the only possible solution to the issues discussed and the advice provided may not be applied equally to seemingly similar situations. A similar identifying statement appears at the beginning of each individual Advisory Opinion. The guidance throughout the document is referenced as such and references to the enforceable parts of USPAP are identified. This is definitely a MISLEADING STATEMENT by AI.

3. Mortgage Lending Focus. Although mortgage lending is a focus of USPAP, it is NOT the only focus, nor should it be. USPAP provides a uniform set of standards for real property, personal property, or business appraisal, and for a variety of intended uses including litigation support, eminent domain, IRS assignments, and appraisals for estates.

The majority of states now have mandatory licensing, while 11 states have a combination of FRTs and voluntary certification, and 6 states are voluntary. Over the past 25 years and to date, USPAP has worked well, with only one organization to date coming forth to offer something different – the Appraisal Institute. AI is offering a solution to a problem that does not exist.

4. Meeting Client Needs. An appraiser can always go beyond the USPAP minimum to meet different standards of practice that are not conflicting. As a matter of fact, The Appraisal Foundation and the International Valuation Standards Council have recently signed a Memorandum of Understanding (MOU). They are working together to create a bridge for differences in the two sets of valuation standards.

The only issue I can think of without making a direct comparison between the two documents as to why it may be prohibitive for a certified appraiser bound by USPAP to be able to complete an appraisal assignment with additional standards may be the issue of contingent fees. Under the ETHICS RULE of USPAP, specific forms of contingent compensation are not permitted in an appraisal assignment. The AI Standards permit contingent compensation in certain assignments, with no disclosure requirements.

5. Compliance Costs. The time it takes for an appraiser to complete an assignment is not because of USPAP compliance – USPAP changes every 2 years, but appraisers have been working under USPAP since they became licensed or certified. Client requirements change over relatively short time periods. These requirements are often mandated by the federal government, the secondary mortgage market participants (e.g., Fannie Mae and Freddie Mac), and other client types including departments of transportation, etc., not USPAP. The use of a credentialed appraiser versus a non-credentialed appraiser is a function of the state and the client, not USPAP. USPAP and TAF do not enforce USPAP, the individual states do. Clients mandate who they will engage in an assignment. If they select non-credentialed appraisers over credentialed, it does not necessarily mean it is an automatic USPAP issue, it could be a matter of geographic competency, cost, etc. The cost associated with staying current on multiple sets of appraisal standards could adversely impact both appraisers and the state regulatory agencies.

6. USPAP is neither Uniform, nor Standard. When USPAP is updated, it is done with full transparency and in answer to the ongoing needs and changes in the economy and the changing professional needs. As changes become fewer and USPAP becomes even more flexible, it will be possible to perhaps lengthen the cycle. The multiple jurisdictional arguments are NOT a USPAP issue, but a state enforcement issue which will become more cumbersome with numerous sets of Standards. This again supports the continuing need to retain the Uniform Standards of Professional Practice.

In summary she felt that the Appraisal Institute and other professional organizations promote the interest of their members, which could be contrary to that of the public interest; whereas each state as well as the Appraisal Standards Board who promulgates USPAP must act in the interest of public trust and that given the significant opposition to multiple sets of valuation standards, she strongly urged the Tennessee real Estate Appraisers Commission to lay this proposal aside, or to table it if need be, to revisit it sometime in the future as may become necessary.

Similar views and opinions from their own professional standpoints on the Appraisal Institute proposal were then made to the members of the Board from:

**Dennis Badger**, Vice Chairman of collateral risk management for e-Farm Credit of America. Mr. Badger is a Real Estate appraiser himself with a small company in central Kentucky that offers appraiser continuing education in a number of states as well as investigative services for different state agencies.

**Anne Petit**, Superintendent of real estate and professional licensing for the State of Ohio and President Elect of the Association of Appraiser Regulatory Officials (AARO)

**Larry Disney**, past President of AARO and Director of the Kentucky Appraisers Board. Mr. Disney is also an appraiser member of the Appraisal Institute with an SRA designation, who has also worked closely with the Appraisal Foundation and other boards for many years.

**Danny Wiley**, who had served on the Appraisal Institute's standards committee, the appraisal standards board of the Appraisal Foundation and the International Valuations Standards committee, Standards Board.

**William (Bill) Wilson III**, Chairman of the American Society of Appraisers Real Property Committee and an ex-commissioner of the Tennessee appraiser board in the 90's who still does compliance reviews for the board.

In support of the Appraisal Institute's proposal was **Randy Button**, a Certified General Appraiser since 1991, who felt that the current problem was that appraisers functioned in a box that was also known as USPAP. He explained that there were many other services appraisers could provide that came of their knowledge and expertise that may come from out of that box. He felt that the proposal made would enable appraisers to use their inherent tool set to provide a meaningful service and answers a question for a client that may not be best served by that USPAP box. In conclusion he requested that the members of the commission regard all aspects of the proposal as an asset to appraisers who were often tasked with working outside of the scope of USPAP.

**Marc Headden**, who worked with the US department of Agriculture in Tennessee and was also the government relations coordinator for the Appraiser Tennessee Coalition with a small company out of which he did appraiser work as well.

Chairman Johnstone thanked all the speakers and guests for attending the meeting then allowed members of the board to share their views on the proposal and the many points of view expressed by those who had spoken. He assured the guests and visitors that the board would pay attention to the proposal and the opinions of those present, and find ways toward common ground on this matter.

In conclusion, Director Avers, who is also the sitting President at AARO, added that at the recent conference the AARO Board of Directors had discussed this matter and only the State of Texas seemed to be in favor of the proposal from the Appraisal Institute. She added that AI was a valuable and important part of AARO but it was generally felt that this measure would likely become the first step towards shutting down reciprocity between states because of different standards of practice and because of these mitigating factors, she encouraged members of the board here in Tennessee to consider the proposal carefully, as many of the other states would be looking to Tennessee for guidance in this matter.

In closing, Mr. Lance Coyle (AI), shared that numbers were down by 20% in the profession and it was becoming more and more difficult to become an appraiser because of increasing regulatory checks and balances. He felt that the proposal was one that allowed appraisers to think about an alternate standard that would make it easier for them to practice outside of the scope of USPAP and the regulations in place today.

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Having no further business, Mr. Johnstone adjourned the meeting at 2:45 p.m.