



**REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Meeting Minutes for July 12, 2022
First Floor Conference Room 1-A
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on July 12, 2022, and the following business was transacted:

BOARD MEMBERS PRESENT: Michelle Alexander, Jim Atwood, Rex Garrison, Brett Mansfield, Pankaj Jain, Jason Bennett,

BOARD MEMBERS ABSENT: Karey Haisten

STAFF MEMBERS PRESENT: Glenn Kopchak, Anna Matlock, Caleb Darnell, Dalia Villarreal, Taylor Hilton

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Rex Garrison called the meeting to order at 9:00 am and Director Glenn Kopchak took roll call.

AGENDA

Jim Atwood made a motion to adopt the agenda. This was seconded by Michelle Alexander. The motion passed by unanimous voice vote.

MINUTES

Bret Mansfield made a motion to adopt the minutes from April 5, 2022. This was seconded by Jason Bennett. The motion passed by unanimous voice vote.

EXPERIENCE INTERVIEWS

Name	Upgrade Type	Recommend
Justin Rich	Licensed	Yes
Michaela Blacker	Licensed	Yes
Jordan Bryant	CG	Yes
Eli McCorkle	CR	Yes
David Henry	CR	Yes

Robert Charles	CR	Yes
Sarah Ice	CG	Yes

Michelle Alexander made a motion to accept the above Interviews. This was seconded by Brett Mansfield. The motion passed by unanimous voice vote.

EDUCATION REPORT

July 12, 2022 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Type	Hours	Recommendation
Appraiser ELearning LLC	2569	2022 ACTS – Day 1	Ben Maxwell	CE	7	Approve
Appraiser ELearning LLC	2570	2022 ACTS – Day 2	Ben Maxwell	CE	7	Approve
Columbia Institute	2576	Practical Applications for Appraisers	Pam Teal	CE	3	Approve
ASFMRA	2584	Using Excel in Specific Appraisal Applications	Ann Roehm	CE	8	Approve
TN Chapter of Appraisal Institute	2587	Staying Out of Trouble	Ted Whitmer	CE	7	Approve
AL Chapter of Appraisal Institute	2885	Transferred Value	Ted Whitmer	CE	7	Approve
Caudell, INC.	2589	What the Appraiser Needs to Know	Bill Caudell	CE	7	Approve
TN Chapter of Appraisal Institute	2592	A TN Deep Dive	Sandra Adomatis	CE	7	Approve
ASFMRA	2593	Appraising Ag Facilities Feedlot	Brian Gatzke, Stacey Menses	CE	8	Approve
ASFMRA	2594	Valuing Livestock Facilities: Dairy Farms	Cindy Best, Rebecca Stone	CE	8	Approve

AFFMRA	2600	Appraising Agricultural Land in Transition	Rebecca Stone	CE	8	Approve
ASFMRA	2603	Timberland Valuation A Practical Overview	Brian Stockman	CE	4	Approve
ASFMRA	2605	Square Footage Method for Calculating Single Family Residences	Anthony Federico	CE	7	Approve

Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
H. Jeff Collins	Hignite	Measuring Square Footage with ANSI 2022	7	CE	Approve
James V. Hickman	IAAO	Real Property Modeling Concepts	30	CE	Approve

Additional / Course Instructor Approvals

Licensee / Instructor (Qualifications)	Course Provider	Course Listings (all previously approved)	Recommendation
William Wilson	American Society of Appraisers	2022-2023 National USPAP Update	Approve
Multiple	McKissock	Mutiple	Approve

Dr. Pankaj Jain made a motion to approve the education committee's recommendations. This was seconded by Michelle Alexander. The motion passed by unanimous voice vote.

DIRECTOR'S REPORT

Budget Report

Director Kopchak summarized the expenditure thus far and noted that the large expenditures listed under "Other" are the Appraisal Subcommittee National Registry Fees. Other than April's revenues, which appeared to be lower than usual, everything else seems to be trending normally. Director Kopchak mentioned he will continue monitoring for possible April reallocations or changes in licensing patterns.

2023 Meeting Dates

Director Kopchak presented the scheduled meeting dates for 2023. Tentative Dates are March 7th, June 20th, September 12th and November 14th. Ms. Alexander made a motion to accept these meeting dates. This was seconded by Mr. Bennett. The motion passed by unanimous voice vote.

LEGAL

Legal Report (Presented by: Taylor Hilton)

- 1. 2022019441**
Opened: 5/31/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 6/25/2003
Expires: 10/31/2022
History: None

Complainant states Respondent called them at 11 A.M. on April 26, 2022, to schedule an onsite property appraisal. Complainant states they agreed to meet at 11 A.M. on May 3, 2022. Complainant states Respondent showed up on time and completed the appraisal. Respondent alleges the due date for the appraisal to the lender was May 6, 2022, but that it was not submitted in time. Complainant states they called Respondent on May 9, 2022, to get a status update, and was informed by Respondent it would not be submitted until May 10, 2022. Complainant alleges, however, that the appraisal was still not submitted on the 10th, and that they could not get a hold of Respondent.

Respondent states they were hired by an appraisal management company. Respondent states the report was due on May 6, 2022. Respondent states they submitted the report on May 12, 2022, and admits the report was turned in a few days late. Respondent states they apologize for the delay, but that it, unfortunately, happens from time to time, and they were not attempting to defraud Complainant in any way. Respondent states, however, that they completed the report, and they had no more contact from their client about the report in question.

Based on Respondent's response and explanation, it does not appear there was an actionable violation. As such, Counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

2. **2022018811**
Opened: 5/31/2022
License Type: Appraisal Management Company
First Licensed: 11/19/2015
Expires: 11/18/2023
History: None

Complainant states they were hired by Respondent to complete an appraisal on April 01, 2022, with a due date of April 22, 2022. Complainant states they updated Respondent's system that the inspection was completed on April 18, 2022. Complainant states this was a 3-hour round trip for them from their office. Complainant states they informed Respondent numerous times that their fee was due, and Respondent expressed to them the assignment was being put on hold. Complainant states they had never received any message or email telling them the project was on hold or requesting them to not perform the appraisal. Complainant states they could not get a hold of Respondent after this to get their payment.

Respondent states when they received the complaint, that was the first time they learned of the outstanding fee. Respondent states they have since paid Complainant their outstanding fee, and all issues have been resolved. Respondent states the issue came from a glitch in their system which caused the miscommunication. Respondent provided PDF files as evidence of proof of their payment to Complainant.

Based on the issue being resolved by Respondent, there does not appear to be an actionable violation. As such, Counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

3. **2021072701**
Opened: 11/29/2021
License Type: Certified Residential Real Estate Appraiser
First Licensed: 10/11/1991
Expires: 10/11/2023
History: 2017 Letter of Warning; 2018 Letter of Warning

Complainant states Respondent supplied them an incorrect appraisal on the property in question. Complainant states Respondent was mistaken concerning the status of the property's GFI circuit. Complainant states Respondent did not inspect the GFI circuitry at first, but later attempted to do so with an unannounced follow-up visit but was denied entry.

Respondent states they received the request from their client, the mortgage company, on October 2, 2021, and made the appointment to inspect the property for October 7, 2021. Respondent states they conducted their inspection without a problem and noted any repairs that needed to be made before the sale of the property. Respondent states they were contacted by their client on October 22, 2021, and were notified the property was ready for a final inspection. Respondent states they made an appointment to inspect the property on October 28, 2022, and confirmed that date with the listing agent. Respondent states they did not show up unannounced as the complaint alleges. Respondent states they went back to the property on the agreed-upon date but were not allowed into the property. Respondent states they informed the homeowner why they were there and that they needed to inspect the GFI but were just met with yelling and rude comments. Respondent states, as such, they left the property. Respondent states due to the actions of the homeowner, they would not be going back to the property and that they obtained a letter from the electrician clearing the property. Respondent states, as such, that their appraisal was not inaccurate.

An expert review was conducted. The expert reviewer determined that there were no observations in Respondent's report that reflected non-compliance with 2020/2021 USPAP Standards. As such, counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

4. **2022016291**
Opened: 5/9/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 10/4/1991
Expires: 9/30/2023
History: 2010 Final Order for allegedly under-valuing a property; 2021 Consent Order for USPAP violations

Complainant is the homeowner of the appraisal in question. Complainant states Respondent was selected by their mortgage company to conduct the appraisal. Complainant states the reason they filed their complaint was due to a month has passed since they paid for the appraisal but that it had not been completed by Respondent. Complainant states they believe this to be unacceptable and is delaying their closing.

Respondent states despite Complainant paying their AMC that day for the appraisal does not mean that was the day they were assigned the appraisal. Respondent states when they received the request, they had informed their client they would be out of town for a week and would not be able to conduct the appraisal until their return. Respondent states, additionally, this was an atypical appraisal because “it was 175 acres with a small 1,300 sq-ft home and a large metal building/garage/workshop.” Respondent states this required more research and time to complete than typical appraisals.

The complaint does not appear to demonstrate any actionable violations, and Respondent provided a response documenting their timeline with the appraisals. As such, Counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

5. **2022006651**
Opened: 4/4/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 9/13/2006
Expires: 9/30/2022
History: 2007 Letter of Warning

Fannie Mae Loan Quality Center submitted this complaint after reviewing the appraisal in question. Complainant alleges they believe there were substantial errors that lead to a non-credible result.

Respondent responded to the complaint. Respondent states they believe the report was credible and do not agree with Complainant’s conclusion. Respondent provided their report and work file, along with an explanation for the adjustments made and the comparables used in the report.

An expert review was conducted. The expert reviewer determined that there were no observations in Respondent's report that reflected non-compliance with 2020/2021 USPAP Standards. As such, counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel’s recommendation.

6. **2022016771**
Opened: 5/9/2022
License Type: Certified General Real Estate Appraiser

First Licensed: 11/22/2000
Expires: 3/31/2023
History: None

A complaint was filed stating Fannie Mae alleged discrepancy with the report in question.

Respondent states they are dismayed by the complaint and asserts they have kept a clean record for over twenty years. Respondent states they strive to do their job to the best of their ability and take their profession very seriously. Respondent states the appraisal in question, was an unusually difficult appraisal with several "complexities." Respondent states, nevertheless, that they believe their report was accurate.

An expert review was conducted. The expert found the report to be credible. The expert reviewer determined that there were no observations in Respondent's report that reflected non-compliance with 2020/2021 USPAP Standards. As such, counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

7. **2022011571**
Opened: 5/2/2022
License Type: Certified General Real Estate Appraiser
First Licensed: 9/3/2020
Expires: 9/2/2022
History: None

This was an administratively opened complaint. The complaint was opened after the paperwork was received about the appraisal report in question having possible "substantial errors which lead to a non-credible result."

An expert review was conducted. The expert found the report to be credible. The expert reviewer determined that there were no observations in Respondent's report that reflected non-compliance with 2020/2021 USPAP Standards. As such, counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

8. **2021073181**
Opened: 12/6/2021
License Type: Certified General Real Estate Appraiser

First Licensed: 8/3/2005
Expires: 5/31/2022
History: None

Fannie Mae complaint alleges there were substantial errors that lead to a non-credible result.

Respondent states they believe their report to be accurate. Respondent states they believe the comparables and adjustments they used were reasonable. Respondent denies the allegations of a non-credible report.

An expert review was conducted. The expert found there were no substantial errors found in the report. The expert found Respondent adequately explained their decisions in the appraisal report. As such, Counsel recommends dismissing the complaint.

Recommendation: Dismiss.

Commission Decision: The Commission accepted counsel's recommendation.

9. 2022022021
Opened: 6/6/2022
License Type: Certified Residential Real Estate Appraiser
First Licensed: 2/17/2005
Expires: 9/30/2023
History: None

Complainant states Respondent was hired on May 4, 2022, to perform an appraisal on their home. Complainant states Respondent agreed to have the appraisal returned by May 20, 2022. Complainant states Respondent appeared at the property to perform the appraisal on the agreed-upon date. Complainant states, however, Respondent did not submit the report on the agreed May 20, 2022, due date, and at the time of the complaint, May 27, 2022, was over a week late. Complainant states the appraisal being untimely was putting their closing at risk, and that they could not get in touch with Respondent.

Respondent states they were in "constant communication" with the Complainant's agent. Respondent states they expressed to the agent that the current rent date they had for the area was dated due to most of the leases in the area originating during the summer months, and this was the reason for the delay in the report. Respondent states the agent helped them search for updated data, and that they were jointly working together on this issue.

Counsel recommends dismissing the complaint, based on Respondent's answer and explanation.

Recommendation: Dismiss

Commission Decision: The Commission accepted counsel's recommendation.

10. 2022011551

Opened: 4/25/2022

License Type: Certified Residential Real Estate Appraiser

First Licensed: 7/13/2005

Expires: 1/31/2024

History: 2011 Consent Order for allegedly undervaluing a residential property by communicating a misleading appraisal; 2017 Consent Order for alleged USPAP violations; 2019 Consent Order for USPAP violations

Fannie Mae complaint alleges there were substantial errors that lead to a non-credible result. The complaint alleges inadequate comparable adjustments and the use of dissimilar comparables.

Respondent states they believe the adjustments they used in the report were the most representative of the market. Respondent states they reviewed the market data to determine an opinion of the market. Respondent states additionally, that the adjustments they made in the report were supported. Respondent states they believe their report meets the requirements and request the complaint to be dismissed.

An expert review was conducted. The expert found the following violations:

Sales Comparison Approach:

- Sale properties likely included furniture, and household equipment for which no adjustment was made.
- This standard would imply consideration/adjustment be completed when comparable properties included furniture and household equipment.
- Likely sales data was available that was more similar to the base characteristics of the subject.

These observations reflect non-compliance with the following 2020/2021 USPAP Standards: SR 1-2(e) (iii); SR1-4 (a & g)

Based on the minimal findings by the expert, they recommended issuing a non-disciplinary letter to Respondent based on the noted USPAP violations. As such, Counsel recommends issuing a Letter of Instruction on the aforementioned USPAP violations.

Recommendation: Letter of Instruction on the aforementioned USPAP violations.

Commission Decision: The Commission voted to defer this matter to the next meeting and send it out for a second review. The Commission voted to instruct the reviewer to specifically discuss any violations.

11. 2022008791

Opened: 4/11/2022

License Type: Certified Residential Real Estate Appraiser

First Licensed: 11/13/2002

Expires: 10/31/2023

History: 2012 Letter of Warning, 2013 Consent Order for Allegedly Over Inflating Value Opinion, 2015 Consent Order for Alleged USPAP violations; 2017 Letter of Warning

Complainant is the homeowner. Complainant states they believe Respondent committed serious errors that affected the final result of the appraisal. Complainant states they believe the comparables used were not accurate. Complainant alleges respondent made numerous minor mistakes that in the aggregate made the appraisal noncredible. Complainant states due to a series of errors within the report they decided to file their complaint.

Respondent states their position as a privilege, and that they strive for honesty. Respondent states they would never initially misreport on an appraisal. Respondent states, rather, they make their decisions based on market research and never intend to include any personal opinions in their reports.

An expert review was conducted. The expert found the following violations:

Scope of Work Rule:

- Appraisal appears to fail to determine and perform the scope of work necessary to develop a credible result.

USPAP Standard SR 1-1 (a & b):

- The characteristics of the property, i.e., access or lack thereof, are not adequately identified so a logical comparison to sale properties was not provided.
- It appears that there is a significant probability that the property lacks legal access to any surrounding roadway. Valuing the property using sales that have road frontage or access without recognition of this significant difference is a substantial error leading to likely misrepresentation as to value.

USPAP Standard SR 1-2 (e) (i) and (iv):

- A review of the tax map and survey metes and bounds description should have led the appraiser to independently review deeds of surrounding properties for possible

easement language or report to the client need for legal and engineering (survey) to establish any existing legal access or lack thereof.

Based on Respondent's history and on the USPAP violations found in Respondent's appraisal by the expert reviewer Counsel recommends a Consent Order requiring Continuing Education to be completed within 180 days of the execution of the Consent Order, and for these classes to be completed in addition to the continuing education minimum requirements for license renewal. Counsel also recommends for the Commission to discuss and decide on the appropriate Continuing Education classes to be included in the Consent Order.

Recommendation: Authorize a Consent Order requiring Continuing Education to be completed within 180 days of the execution of the Consent Order, and for these classes to be completed in addition to the continuing education minimum requirements for license renewal. Counsel also recommends for the Commission to discuss and decide on the appropriate Continuing Education classes to be included in the Consent Order.

Commission Decision: The Commission voted to defer this matter to the next meeting and send it out for a second review. The Commission voted to instruct the reviewer to specifically discuss any violations.

**12. 2022022171
Opened: 6/6/2022
Type of License: Certified Residential Real Estate Appraiser
First Licensed: 12/4/2014
Expires: 8/8/2023
History: None**

Complainant states on October 12, 2021, the mortgage company related to the property submitted a request for an appraisal, and Respondent accepted on October 19, 2021. Complainant states Respondent completed the order for the property in question, on October 28, 2021. Complainant states on May 23, 2022, their mortgage company was notified that the loan was ineligible due to an unacceptable appraisal. Complainant states it was specifically noted that the appraisal was unacceptable due to the lack of adjustments, failure to make adjustments that were "clearly indicated" and not supporting adjustments in the sales comparison approach. Complainant states on May 24, 2022, their mortgage company reached out to Respondent, and asked for either corrections or additional commentary supporting the lack of adjustments. Complainant states Respondent answered the request stating they would not be revising the report or adding any additional comments to the report.

Respondent states Complainant sending them comparables to consider in their report was wrong and a conflict of interest. Respondent states they considered the entire market when they appraised

the property, and they do not have to consider any potential comparables anyone sends them. Respondent states that unless Complainant has evidence of them being unethical then they do not believe the complaint is valid, and that Complainant was attempting to influence their opinion. Respondent states they are reporting Complainant to the Tennessee Department of Financial Institutions. Respondent states they did not do anything wrong, and they were not biased towards any party. Respondent asserts they believe as the appraiser they are the ones who decide the comparables and no one else. Respondent states they do not feel they have to explain why they did not use certain comparables. Respondent then asserted in their response that they suggest everyone involved in the complaint find a new job that does not involve lending.

Respondent states they used to comply with nearly every revision request, but they no longer make revisions. Respondent further states that there is nothing credible about this complaint because appraisers aren't required to make adjustments, and that the appraiser is the one who determines the scope of work. Respondent states they have not been making adjustments on any of their appraisals for roughly the past year.

Counsel reached out to Respondent seeking their report file. Counsel received the following summarized responses from Respondent:

- “The only thing this complaint is about is: Are appraisers required to make adjustments? I already know the answer to that. Appraisers aren’t required to make adjustments. The appraiser determines the scope of work for completing an appraisal. That is why I said that this complaint has no merit. I don’t see how any documents that I send you will help you determine if appraisers are required to make adjustments because there is nothing determine at all. Appraisers aren’t required to make adjustments unless the appraiser determined that adjustments are necessary to provide an opinion of value. It’s my philosophy that they are complaining about. I’m sure this can be confusing to someone who isn’t an appraiser or someone who doesn’t solely work on appraisal disputes. Let me know specifically what you need from me. Again, I don’t see how anything that I provide you will help you but I will provide you with anything you want. Saying “work file” is a broad term. I would like to know specifically what you want from me. I would also like know how the things you want from me will help you determine anything.”
- “Adjustments are a tool that the appraiser can use at the appraiser’s discretion. USPAP doesn’t mention adjustments, therefore, not making adjustments can’t be a violation of USPAP. I can see where making unwarranted high adjustments could be unethical and a violation of USPAP. It’s my opinion that if an appraiser is going to make adjustments then the appraiser should have data to justify the adjustments (data such as matched paired analysis). My issue with matched paired analysis is that you get different results when you use different property, therefore, the appraiser must speculate even when the appraiser has data from a matched paired analysis. Nobody can prove that there is a 100% direct correlation between property value and a single property characteristic. This means that adjustments are speculation. That is what an appraisal is - speculation/ an opinion of value. If an appraiser believes that credible and reliable results can be provided without making adjustments then the appraiser doesn’t have to make adjustments. There were 2 realtors, 1 buyer, 1 seller, and myself who were all pleased with the appraised value. I

would call that credible and reliable. By not making adjustments it allows me to not have to speculate on small things and focus on the big picture - the thing that really matters - the opinion of value. I'm not going to make adjustments that I can't prove and like I have already said - nobody can prove a 100% direct correlation between property value and a single property characteristic. What I mean by property characteristic is: square foot, car storage, porch/patio, lot size, view, etc."

An expert review of the appraisal was then conducted. The following violations were found:

Scope of Work:

The appraisal fails to:

- Provide support by relevant evidence and logic.
- Be prepared in a manner that meets expectations of parties who are regularly intended users for this type of appraisal
- To meet actions of peers performing a similar assignment

USPAP Standard SR 1-1 (a):

The reviewer is unable to determine if appraiser understands and can employ techniques that are necessary to produce a credible appraisal inasmuch as sales comparison lists three sales but offers no analysis of differences between subject and sale characteristics.

USPAP Standard SR 1-2 (h):

- Appraisal fails to provide scope of work necessary to meet the scope of work rules.

USPAP Standard SR 1-4 (a):

- Appraisal lists three sales but provides no analyses typical of expectations of user nor of actions that peers would typically provide.

USPAP Standard SR 2-1 (b):

- The comparables are not identical to the subject. No analysis, ranking or discussion supporting value opinion that would be based on typical expectation of appraisal users or actions by peers is presented.
-

USPAP Standard SR 2-2 (x)(5):

- Appraisal fails to adequately summarize the reasoning that supports the opinion as no data was provided to account for differences in property characteristics.

Since Respondent did not have any history, they were offered a Conditional Dismissal requiring them to take a report writing course. However, Respondent denied that offer. Respondent expressed they do not agree to the terms of the Conditional dismissal and states “for what reason should I have to take a report writing course?” Respondent states they would not be taking any additional continuing education classes at their expense. Respondent expressed that they took a report writing course about 3 years ago, and “don’t see how me taking another “report writing” class will resolve anything.” Respondent states they “will hire a lawyer and go to court where [they] can speak and hear the response(s) of who ever came to this conclusion before [they] comply with taking more courses at [their] expense (that will solve nothing).” Respondent further states they will “sue the state and the lender for the mental distress.” Respondent states they feel this undue, and states that their lawyer will contact both “the state, and the lender regarding this.” Respondent states that while this process may make the lender feel better but that it will not change how they conduct business or their philosophy on making adjustments. Respondent asserts the fact that they will not take another class, do not agree with this process, and will be suing for undue mental distress.

Based on Respondent’s responses Counsel recommends for the Commission to discuss the issues and violations pertaining to the complaint to determine the best disciplinary action.

Recommendation: Discuss.

Commission Decision: The Commission voted to issue a Consent Order with the following: 15 Hours CE in Report Writing, 15 Hours CE USPAP Course, 30 Hours CE in Sales Comparison, license suspension until completion of all required CE course and successful completion of tests for all courses all of which would be over and above what is necessary for license renewal and to be completed within 180 days. Additionally, the Commission voted to require Respondent to submit the first five appraisal reports completed after the suspension is lifted to legal counsel so that they may be sent out for expert review and assessed for errors. If any violation is found on these reports, then license shall be revoked.

CASES TO BE REPRESENTED:

13. 2018062301
Opened: 8/31/2018

Licensing History: Unlicensed

Disciplinary History: None

Complainant alleges unlicensed activity on a mass nationwide appraisal wherein hundreds of millions of dollars of cell phone tower property was appraised.

Review shows approximately a dozen cell phones tower properties in the state of Tennessee were evaluated. Extensive expert review conducted herein. Counsel has corresponded with the attorney representing Respondent and Respondent has submitted numerous documents as requested by Counsel.

After review, it was found that Respondent is not licensed in Tennessee but signed a report stating he was the certified appraiser on the mass multi-state valuation and that he received assistance from several named individuals. One of the individuals received a temporary license from the Commission for the purposes of this transaction and later became fully licensed in the state of Tennessee. Said individual responded to request for production by counsel and the expert reviewer reviewed this matter.

The alleged "Appraisal Report" was provided to the expert reviewer as well as over 1,000 pages of supporting documentation. The appraisal report was identified as a "Valuation of Certain Assets of." The Client had asked an accounting firm to provide a retrospective valuation services related to its recapitalization transaction as of July 29, 2016 ("Valuation Date"). The objective of the alleged appraisal report was to assist the Client in estimating the fair value of the acquired identified tangible and intangible assets ("Assets"). The valuation will conclude the fair value and fair value of one unit in the Company on a minority, non-marketable per unit basis. Page 4 of the report stated, "This valuation analysis was conducted for financial reporting purposes in connection with U.S. GAAP and ASC 805, Business Combinations and ASC 805, Fair Value Measurements."

The expert reviewer found that the alleged Appraisal Report constituted a Fair Value Report with no association to USPAP.

The expert reviewer concluded his review by finding "This report is a disservice to USPAP as well as an appraisal report of real property as defined by Market Value. Although the report is disguised to represent a market value appraisal report with respect to its construction and included USPAP DEFINITIONS, its clarity is deceiving."

Recommendation: Dismiss.

Decision: The Commission voted to authorize a Consent Order with a one thousand dollar (\$1,000.00) civil penalty per property that had been appraised and to open a complaint against the temporary licensee.

NEW INFORMATION

Counsel met with Respondent's Counsel on October 28, 2019. Respondent states they now require all appraisal professionals who provide significant assistance to an engagement sign the certification of each appraisal report. Respondent agrees to attend courses related to the violations. Respondent proposes completion of a 7-hour USPAP course for non-residential real property and the 4-hour "that's a violation" course.

New Decision: The Commission voted to keep their original recommendation, and to open an administrative complaint against the individual with a temporary license.

New Information: The Respondent's counsel has provided additional information and stated the anonymous complaint submitted the exact same complaint to the Commission was sent to other real estate boards or commissions in 12 other states in the United States. This complaint was filed by a disgruntled former employee who was on a team of a large accounting project. The former employee also tried to take business when departing from the firm and when the former employee was unsuccessful the former employee started to submit complaints in the other states. In nine of the 12 other states the matter was closed, not acted upon or dismissed with no other enforcement action. In one other state, the matter was closed with a letter of caution. The Respondent is contesting any enforcement action by the remaining states, including Tennessee. The Respondent's firm was retained by a communication company to perform a valuation of certain assets (cell towers) following a transaction that required an allocation of the refinancing "purchase price" after the transaction was closed. This was not an appraisal required by a party prior to a sale or any transaction. The Respondent's firm valued the client's real property with FASB requirements (including Accounting Standards Codification 805. The engagement was not to provide an appraisal of real property. The task was simply to allocate an already established "purchase price" that was already agreed to in a prior transaction that was closed before the Respondent's firm's engagement. The Respondent does not hold a Tennessee Appraiser License and did not function as a real estate property appraiser in the engagement. The work performed by the Respondent is not fall under the definitions of an appraisal assignment as defined under the Tennessee appraisal statute under Tenn. Code Ann. §§ 62-39-102(2) "Appraisal" means the act or process of developing an opinion of value of identified real estate. That opinion of value may be numerically expressed either as a specific amount, as a range of numbers or as a relationship to a previous value opinion or other numerical benchmark and 62-39-102(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. This was not an engagement to determine an appraised value, but a value. This entire project was an internal accounting function and not a real estate appraisal function. Tenn. Code Ann. § 62-39-102(9) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and

preparing an appraisal report and 62-39-102(10) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration. Tenn. Code Ann. § 62-39-102(5) "Appraisal report" means any communication, written or oral, of an opinion of value of identified real estate. For the purposes of this chapter, an appraiser who testifies as to the value of an identified real property is deemed to have provided an oral appraisal report. The Respondent was the team lead in the large project and performed services for an internal accounting function for a corporation and this was not a real estate appraisal conducted by the Respondent or the Respondent's firm. Additionally, in Tennessee cellular telephone towers are designated as public utility property pursuant to Tenn. Code Ann. § 67-5-501(8).

In the event of any issue, the firm made sure there was a licensed Tennessee Appraiser on the team and the team member had obtained the necessary license from the Commission. This team member later obtained the permanent appraiser license in Tennessee.

New Recommendation: Close.

New Decision: The Commission elected for Counsel to resubmit the matter to the original reviewer and request more detailed information regarding the appraisal, including the details of the cell tower and land valuation, if applicable. This matter has been deferred until the next Commission meeting.

New Information:

This complaint is related to 202002971. Commission last voted for the original expert reviewer to re-review the report and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation, in the November 2020 Commission meeting. However, the expert who originally reviewed the report is no longer completing reviews for the Department. Likewise, the Department does not currently have an expert retained that is able to conduct a second review on the report in question.

The Department is in the process of procuring additional expert reviewers through the contract and solicitation period. However, as this matter is of immediate importance to Commission, Counsel decided to bring this matter to the Commission for a discussion of how to approach the present issue without a secured reviewer at this time.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint.

New Information:

This complaint is related to 202002971. Commission last voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint. and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation.

Below are listed the findings of the review:

Record-Keeping Rule:

- The respondent admittedly failed to keep a Workfile for each property appraised.

Record-Keeping Rule & Ethics Rule:

- The report states, that the real property valuations are presented in a Restricted Appraisal Report format. As such, most sections typically included within an appraisal report have been omitted and/or abbreviated. The reader is forewarned, that the opinions and conclusions set out in this report have the potential to be misinterpreted and/or misunderstood absent the knowledge of the information and notes retained in the appraiser's Workfile. Respondent admitted to not having a Workfile for each property.

Scope of Work:

- The report is limited in many regards and cannot be fully understood as preparation for the referenced intended use.
 - o Scope of Work: An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Standard Rule 1-1; Standard Rule 2-1:

- Much of the valuation is referenced in the Workfile with no Workfile. There is a substantial error of omission that significantly affects the appraisal.

Standard Rule 1-3 (a):

- The appraisal report fails to identify existing land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends.

Standard Rule 1-2 (f); Standard Rule 2-2:

- The report states, "Based on continued-use premise of value, we have assumed the current use of the real properties, as telecom tower sites is there as and best use, as if vacant and as improved." The Highest & Best use as presented in restricted format employs an extraordinary assumption for the conclusion with no reference to the impacts of this extraordinary assumption.

Standard Rule 1-4 (A):

- A summary paragraph was completed as an analysis for the Sales Comparison Approach. It is noted, that the summary conclusion does state detailed schedules of real property values are presented in Appendix H. This portion of the report had been scanned and was illegible but appears to be an adjustment grid.

Standard Rule 1-4 (B):

- A summary paragraph was completed as an analysis of the Cost Approach. It is noted, that the summary conclusion does state detailed schedules of real property values are presented in Appendix H. This portion of the report had been scanned and was illegible but appears to be a cost summary.

-

Standard Rule 1-4 (C):

- A summary paragraph was completed as an analysis of the Income Approach. It is noted the summary references a DCF in the addenda of the report. This portion of the report had been scanned and was illegible but appears to be a DCF.

Standard Rule 1-5:

- No mention of any prior sales, options, or listings were mentioned in the appraisal report.

Standard Rule 1-6:

- Only a summary table with no analysis was provided as a reconciliation.

Standard Rule 2-2 (ix):

- The certification states assistance was provided by various names but does not summarize this assistance.

Conclusion:

- The provided report is a mass valuation spanning multiple states including that of Tennessee. This report provided retrospective valuation services for business assets including intangible and real property. The real property assets considered were comprised of various interests pertaining to land underlying cell towers in 48 states. Ownership included but was not limited to owned, easements, and ground leases. The real property appraisal is self-proclaimed as a restricted appraisal report. This real property valuation includes a scope of work, market analysis, identification of assets, a cost approach, a sales comparison approach, income approach, and signed certification. The certification was signed by the defendant and titled, "Real Property Appraiser Certification." The report is clear in numerous instances that while limited in scope, this is an appraisal report. In addition, the certification states the following, "Our analysis, opinions, and conclusions were developed, and this report has been prepared in conformity with the most recent edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The certification does state the appraiser was assisted by various individuals who may or may not hold or have held a valid Tennessee appraisal license.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to continue with the original discipline of a Consent Order with a one thousand dollar (\$1,000.00) civil penalty per property that had been appraised. This would be for a total of \$9,000.00.

14. 2020002971
Opened: 1/13/2020

License Type: Certified General Real Estate Appraiser

First Licensed: 2/15/2018

Expires: 2/14/2022

Disciplinary History: None

This complaint was opened administratively.

Respondent failed to comply with 1255-06-.02(4) for failing to a list of each specific parcel of real property with the application for the temporary practice permit.

Respondent filed a response via their attorney stating that the valuations were not appraisals. Respondent further states that even if the valuations were considered real estate appraisals, they were conducted in compliance with the regulations governing temporary licenses permitted by the ruled promulgated by the Commission. Respondent obtained the correct license to perform the work and therefore the complaint should be dismissed. Respondent states that Tenn. Comp. R. & Reg. 1255-06-.02(2) provides that a nonresident of Tennessee may apply to the Commission for a temporary practice permit to perform a single appraisal and for purposes of this rule only, “assignment” shall mean one or more real estate appraisals and written appraisal reports which are covered by a contract to provide real estate appraisal service. (Tenn. Comp. R. & Reg 1255-06-.02(1). Respondents relies on the above referenced rule to support the premise that a temporary permit may cover the appraisal of more than one property for a single assignment. Respondent further states that they did not provide the Commission with a list of each property included in the assignment as required by Tenn. Comp. R. & Reg. 1255-06-.02(4) because the online forms did not allow them to enter multiple addresses when they submitted their application for the temporary license.

Recommendation: \$1,000 civil penalty for violation of 1255-06-.02(4).

Decision: The Commission accepted Counsel’s recommendation.

New Information: This complaint is related to 2018062301. Commission last voted for the original expert reviewer to re-review the report and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation, in the November 2020 Commission meeting. However, the expert who originally reviewed the report is no longer completing reviews for the Department. Likewise, the Department does not currently have an expert retained that is able to conduct a second review on the report in question.

The Department is in the process of procuring additional expert reviewers through the contract and solicitation period. However, as this matter is of immediate importance to Commission, Counsel decided to bring this matter to the Commission for a discussion of how to approach the present issue without a secured reviewer at this time.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint.

New Information:

This complaint is related to 2018062301. Commission last voted to have Commission member, Brett Mansfield, conduct a re-review of this appraisal and complaint. and provide more detailed information regarding the appraisal, including the details of the cell tower and land valuation.

Below are listed the findings of the review:

Record-Keeping Rule:

- The respondent admittedly failed to keep a Workfile for each property appraised.

Record-Keeping Rule & Ethics Rule:

- The report states, that the real property valuations are presented in a Restricted Appraisal Report format. As such, most sections typically included within an appraisal report have been omitted and/or abbreviated. The reader is forewarned, that the opinions and conclusions set out in this report have the potential to be misinterpreted and/or misunderstood absent the knowledge of the information and notes retained in the appraiser's Workfile. Respondent admitted to not having a Workfile for each property.

Scope of Work:

- The report is limited in many regards and cannot be fully understood as preparation for the referenced intended use.
 - o Scope of Work: An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Standard Rule 1-1; Standard Rule 2-1:

- Much of the valuation is referenced in the Workfile with no Workfile. There is a substantial error of omission that significantly affects the appraisal.

Standard Rule 1-3 (a):

- The appraisal report fails to identify existing land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends.

Standard Rule 1-2 (f); Standard Rule 2-2:

- The report states, “Based on continued-use premise of value, we have assumed the current use of the real properties, as telecom tower sites is there as and best use, as if vacant and as improved.” The Highest & Best use as presented in restricted format employs an extraordinary assumption for the conclusion with no reference to the impacts of this extraordinary assumption.

Standard Rule 1-4 (A):

- A summary paragraph was completed as an analysis for the Sales Comparison Approach. It is noted, that the summary conclusion does state detailed schedules of real property values are presented in Appendix H. This portion of the report had been scanned and was illegible but appears to be an adjustment grid.

Standard Rule 1-4 (B):

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Standard Rule 1-4 (C):

- A summary paragraph was completed as an analysis of the Income Approach. It is noted the summary references a DCF in the addenda of the report. This portion of the report had been scanned and was illegible but appears to be a DCF.

Standard Rule 1-5:

- No mention of any prior sales, options, or listings were mentioned in the appraisal report.

Standard Rule 1-6:

- Only a summary table with no analysis was provided as a reconciliation.

Standard Rule 2-2 (ix):

- The certification states assistance was provided by various names but does not summarize this assistance.

Conclusion:

- The provided report is a mass valuation spanning multiple states including that of Tennessee. This report provided retrospective valuation services for business assets including intangible and real property. The real property assets considered were comprised of various interests pertaining to land underlying cell towers in 48 states. Ownership included but was not limited to owned, easements, and ground leases. The real property appraisal is self-proclaimed as a restricted appraisal report. This real property valuation includes a scope of work, market analysis, identification of assets, a cost approach, a sales comparison approach, income approach, and signed certification. The certification was signed by the defendant and titled, “Real Property Appraiser Certification.” The report is clear in numerous instances that while limited in scope, this is an appraisal report. In addition, the certification states the following, “Our analysis,

opinions, and conclusions were developed, and this report has been prepared in conformity with the most recent edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The certification does state the appraiser was assisted by various individuals who may or may not hold or have held a valid Tennessee appraisal license.

New Recommendation: Discuss.

New Commission Decision: The Commission voted to continue the original discipline of a \$1000.00 civil penalty for violation of 1255-06-.02(4).

AARO Conference Update

Anna Matlock attended the Spring AARO Conference in San Antonio, Texas. She gave an update on the PAVE Report. Regarding PAREA, she introduces this alternative mentor model to the current supervisor/trainee model which will allow more consideration for experience.

Director Kopchak noted that the Fall AARO Conference will be held in Washington D.C. from October 14-17. The Commission selected Michelle Alexander and Dr. Pankaj Jain to attend as representatives with Karey Haisten as an alternate. They further designated the following staff for attendance: Glenn Kopchak, Anna Matlock and Taylor Hilton.

Rex Garrison made a motion to approve the representatives to attend the Fall AARO Conference. This was seconded by Jason Bennett. The motion passed by unanimous voice vote.

Complaint Process Update

The Commission discussed Fannie Mae computer generated complaints or referrals. It was decided that unless signed by an individual representing the organization, a complaint would not be opened. The motion was made by Rex Garrison and seconded by Jason Bennett. The motion passed by majority voice vote, with Dr. Jain and Jim Atwood dissenting.

ADJOURNMENT

There being no new business, Michelle Alexander made a motion to adjourn the meeting. This was seconded by Brett Mansfield. The motion passed by unanimous voice vote. The meeting adjourned at 11:04 a.m.