



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

**October 19, 2009**  
**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met October 19, 2009, at 8:55 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Vice-Chairman, Thomas Carter, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Najanna Coleman  
James E. Wade, Jr.  
Kenneth Woodford  
Marc Headden  
Thomas R. Carter  
William R. Flowers, Jr.  
Dr. Edward A. Baryla  
Erik Sanford

**COMMISSION MEMBERS ABSENT**

Herbert Phillips

**STAFF MEMBERS PRESENT**

Nikole Avers, Administrative Director  
Jesse D. Joseph, Staff Attorney

**ADOPT AGENDA**

Mr. Headden made the motion to accept the agenda and it was seconded by Mr. Woodford. The motion carried unopposed.

**MINUTES**

The September 2009 minutes were reviewed. Mr. Flowers made the motion to accept the minutes as written. It was seconded by Mr. Woodford. The motion carried unopposed.

**GENERAL BUSINESS**

**Discussion of AMC Regulation**

New business scheduled to be held was a discussion of Appraisal Management Company legislation that has been introduced in several States. Mr. Wade made a recommendation to postpone discussion of

regulation of Appraisal Management Companies (AMC's) until the next Commission meeting. Mr. Headden seconded that motion and the motion passed.

### **Letters received by the Administrative Director for the Real Estate Appraiser Commission**

---

- **Bryan Montgomery** submitted a letter requesting a waiver from the Real Estate Appraiser Commission to attend a second experience interview. He applied and passed in December of 2007 the certified residential examination. In December of 2008, Mr. Montgomery applied to upgrade to certified general real estate appraiser and attended an experience interview which was granted approval, but he has been unsuccessful thus far in passing the certified general examination. He submitted both residential and commercial appraisal reports for that experience interview. Because he doesn't want to lose credit for passing the certified residential examination, Mr. Montgomery appealed to the Commission to waive the experience interview requirement if he applied to upgrade to certified residential real estate appraiser prior to the expiration of his examination. Mr. Headden made a motion to waive the experience interview requirement and Mr. Flowers seconded that motion. The motion passed unanimously.
- **Tammie Tenneson** submitted a letter requesting the Commission considered changing the education Rules to allow on-line education and "relax the 200 hour education requirement". In her letter, she expressed the hardship the HVCC and FHA changes have caused. Mr. Wade made a motion to deny this request. Mr. Headden seconded that motion. The motion passed.

### **Experience Interviews**

---

**Donald Fred Johnson** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Wade was the reviewer and stated there were some issues with the appraisal reports, but that when he questioned the applicant, Mr. Johnson gave satisfactory answers and expressed good knowledge of appraisal methodology and requirements of USPAP. He stated he believe the issues were caused by the sponsor. Mr. Wade recommended approval of Mr. Johnson's experience request. Mr. Flowers made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**Douglass Philip Russell** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and he recommended approval of his experience. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**John Todd Cool** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Carter was the reviewer and he recommended approval of his experience. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Paul D. Harper** made application to upgrade from a registered trainee to become a licensed real estate appraiser. Mr. Woodford was the reviewer and he recommended the applicant submit three additional appraisal reports and attend a second experience interview. Mr. Headden made the motion to accept the recommendation and Ms. Coleman seconded the motion. The motion carried unopposed.

**Kathleen Ann Robinson** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Headden was the reviewer and he recommended approval of her

experience. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Jerry Dylan Travis** made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Headden was the reviewer and recommended approval of his experience. Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

### Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations to the Real Estate Appraiser Commission. Mr. Headden made a motion to defer approval of the three TREES courses (1330, 1331, 1332) until proof of secondary provider approval had been submitted. Mr. Woodford seconded the motion. The motion passed. Mr. Headden made a motion to approve courses 1333, 1334, 1335, 1337 and 1338. Ms. Coleman seconded the motion. The motion carried unopposed. Mr. Flowers made a motion to accept the provision recommendation for course 1339. Mr. Wade seconded the motion. The motion carried unopposed. Mr. Wade made a motion to accept the provision recommendation for course 1340. Mr. Flowers seconded that motion. The motion carried. Mr. Flowers made a motion to accept the recommendation for approval of courses 943 (instructor approval) and 1341. Mr. Wade seconded the motion. The motion passed. After some discussion, Mr. Wade made a motion to approve the individual course approval request of James P. Murdaugh. Mr. Flowers seconded that motion. The motion passed. Mr. Wade made a motion to approve the individual course approval request of Doyle R. Monday. Mr. Headden seconded that motion. The motion carried unopposed. Mr. Wade made a motion to accept the approval of 60 hours of qualifying education for Julia Beth Posey to count towards Basic Appraisal Principles and Basic Appraisal Procedures, with no credit for the USPAP or the Real Estate Law submission. Mr. Flowers seconded that motion. The motion carried unopposed. Mr. Headden made a motion to approve the individual course approval request of Earl R. Bouldin, Jr. Mr. Flowers seconded the motion. The motion carried unopposed.

### October Education Committee Report

Course Provider	Course #	Course Name	Instructors	Hrs.	Type	Rec. from Dr. Baryla
TREES/TAPS	1330	On-Line USPAP Update 7 Hours	Timothy L. Detty	7	CE	<b>Against until proof of AQB secondary provider approval submitted.</b> The AQB approved Hondros as the course provider. I could find no evidence on the AQB website that TREES is approved as a secondary provider by the AQB for this course.
TREES/TAPS	1331	On-Line FHA & VA Appraisal Basics	Timothy L. Detty	7	CE	<b>Against until proof of AQB secondary provider approval submitted.</b> The AQB approved Hondros as the course provider. I could find no evidence on the AQB website that TREES is approved as a secondary provider by the AQB for this course.

TREES/TAPS	1332	On-Line Sales Comparison Approach	Timothy L. Detty	7	CE	Against until proof of AQB secondary provider approval submitted. The AQB approved Hondros as the course provider. I could find no evidence on the AQB website that TREES is approved as a secondary provider by the AQB for this course.
McKissock, Inc.	1333	On-Line How to Analyze & Value Income Properties	Bruce Coin	7	CE	Approval
The Spearman Center	1334	Appraisal Reviews – A Two-way Street	W. L. Spearman	7	CE	Approval
The Spearman Center	1335	The HVCC: Fair or Fraud	W. L. Spearman	7	CE	Approval
Appraisal Institute	1337	On-Line GIS – The Executive Overview	Larry T. Wright	7	CE	Approval
Career Webschool, a dba of Cengage Learning	1338	On-Line 2010 – 2011 7 Hour National USPAP Update Course	A.M. Bud Black	7	CE	Approval
Appraisal Institute	1339	International Valuation Congress 2009, Day 2	Larry Wright Larry Cowart Julio E. Torres Coto M.	4	CE	For provisionally 4 hours for DCF valuation session 2 hours for trending and graph session 0 credit for 1.5 hour Standards around the world
Appraisal Institute	1340	International Valuation Congress 2009, Day 3	David Wilkes Peggy Berg	4	CE	For provisionally 2 hours for Global prop taxation 2 hours for consulting and valuation to hotel and resort
Allied Business Schools, Inc.	943	On-Line Allied National USPAP Update Course – Instructor Approval Request	Roy K. Bottget	7	CE	Approval
McKissock, Inc.	1341	On-Line Risky Business: Ways to Minimize Your Liability	Alan Simmons	7	CE	Approval

#### Individual Course Approval

Name	License #	Provider	Course Name	Hrs	Type	Recommendation from Dr. Baryl
James P. Murdaugh	CG 5	Alabama Chapter of IRWA	103 Ethics & Right of Way Professional	8	CE	Approval

James P. Murdaugh	CG 5	Alabama Chapter of IRWA	804 Skills of Expert Testimony	8	CE	Approval
Doyle R. Monday	CG 393	Institute for Professionals in Taxation	ABA/IPT Advanced Property Tax Seminar	13	CE	Approval
Julia Beth Posey	None	Barney Fletcher Schools	75 Hour Pre-licensing course (Principles, Procedures, 15 Hr USPAP) + Real Estate Law course taken in Georgia	90	QE	Against for the 15 hour USPAP course. There was no information submitted regarding AQB certification of the instructor. Recommend for 30 hours of basic principles and 30 hours of Basic Procedures for an <b>Approval total of 60 hours.</b>
Earl R. Bouldin, Jr.	CR 645	Memphis Bar Association	Real Property Law	6	CE	Approval

## LEGAL REPORT

---

Based on prior Commission approval, the Chairman signed orders in the following matter:

**Michael Youmans** (approved 8/09) – signed Consent Order of permanent revocation without the ability to apply in the future for licensure, certification, or to become a Registered Trainee wherein he performed two land appraisals in West Tennessee dated 4/4/06 with a value of \$217,000, 4.7 acres of land, and an appraisal of 5/3/06 with a value of \$680,000, which included a proposed building. Respondent also prepared an undated addition (update) consisting of a 1 page comment, which increased value to \$1,364,246. The Commission found multiple and very serious violations of SRs 1-1(a), (b) & (c), 1-2(e)(iv), 1-4, 1-5, 1-6, & 2-1(a) & (b). The appraisals are so limited in presentation that they are considered very misleading; they were not clear or accurate; the reports do not contain sufficient information to enable the intended users to understand the report properly, and are not understandable. All of the appraisals are offered on a residential form and information presented is very limited, both as to the property being appraised as well as the comparable sales. There are notes on one of the appraisals which indicate that the property purchased was within the reporting period required by Standards; however, no prior sales were reported by Respondent. All of the appraisals are offered on a residential form and information presented is very limited, both as to the property being appraised as well as the comparable sales. There are notes on one of the appraisals which indicate that the property purchased was within the reporting period required by Standards. No prior sales were reported.

### 1 & 2. L07-APP-RBS-2007061501 & 2007070831 Docket No. 12.36-099751A

#### Commission member Wade and Robert Sain were the Reviewers

Two complaints were filed against Respondent in 2007 regarding 4 small residential income appraisals he performed in East TN in the spring of 2003. These matters were considered in the summer or fall of 2007, a prior consent order was authorized and rejected by Respondent, and an informal conference was conducted in the fall of 2007.

After the filing of formal proceedings in July of this year, Respondent has retained counsel and has now expressed a desire to settle this matter. He has agreed to the entry of an order (on a no contest basis) setting forth that his conduct was grossly negligent and highly indicative of fraudulent intent, due to, amongst other things:

1. His stating that one subject was a 4-plex, when photos and electric meters show it is a 6-plex;
2. His failing to report actual market rent since the rental comps were owned by the same borrower; failing to disclose the borrower's ownership of these comps, and stating instead that "rental data was collected from area landlords and tax records";
3. His stating that certain subjects were within historic districts without stating any restrictions on renovations/repairs and by inconsistently stating that the zoning was "R-2, 2-4 Family Residence";
4. His failing to provide any rationale or support for his effective age opinions of 20 years (with no apparent need of renovation);
5. His use of comparable sales with an extremely wide range of adjusted sales prices; and
6. His failure to identify these appraisals as self-contained, summary, or restricted use.

As explanation and in mitigation, Respondent has contended that several "other appraisers and lenders had accepted the 6-plex as a 4-plex" before he did, and that the remaining two apartments were full of stored material and that the property was "used" as a 4-plex. He also claims he "left a lot of bad habits behind" when he left East TN several years ago and moved to middle TN, that he needs to provide for his family, and that he has had no further complaints since mid-2007. Counsel for the State takes no position on the explanation and leaves it up to the Commission as to whether any of the explanation should be considered mitigating.

Respondent does not desire a hearing in this matter and proposes as a consent disposition that he be disciplined by a 1 year suspension (to be commenced on February 1, 1010), and indefinitely until he completes all of the following: payment a civil penalty of between \$1,000 -\$1,500, reimbursement to the State for the costs of its expert witness, payment all other investigative and hearing costs, and completion of whatever specified appraisal courses the Commission orders him to take.

Counsel for the State proposes instead that any consent disposition set forth that Respondent be disciplined by a *minimum of a 2 year suspension, and indefinitely* until he completes each of the above. Counsel is of the opinion that recent decisions in the form of the *Alan R. Price order (2 year and indefinite suspension; case tried in February and March, 2009)* set forth the Commission's precedent that in matters where fraudulent conduct is found, a minimum of a 2 year suspension is the appropriate discipline.

In certain other cases where there have been recent prior disciplinary orders entered against a Respondent, and where the Commission finds fraud in the current case, the Commission has tended to impose revocation or consent orders of voluntary surrender in lieu of the State taking further action. All of these matters are considered on a case-by-case basis, however.

The following decision options are recommended:

1. If the Commission adopts the Respondent's proposal, counsel for the State will prepare an

Agreed Order to that effect for signature at the next meeting.

2. If the Commission adopts the State's proposal for a consent disposition, Respondent will be presented with that proposed Agreed Order, and he can either accept it, or reject it; in case of rejection this matter can proceed to hearing at a later Commission meeting.
3. If the Commission disapproves of both of the proposed consent dispositions, then a hearing in this matter will be presented at a later Commission meeting.

**Prior Complaint/Disciplinary History:** 200206931 (closed with a letter of warning); 200504259 (closed)

**Recommendation and reasoning:** Counsel for the State requests the Commission's decision on how it desires this matter to proceed as set forth above.

**Vote:** Mr. Headden made the motion to proceed to formal hearing and Mr. Woodford seconded the motion. The motion carried unopposed.

**3. L08-APP-RBS-2008006901            Docket No. 12.36-101135A**  
**Commissioner Woodford and Danny Wiley were the Reviewers**

A prior consent order was approved by the Commission in May of last year which would impose minimal discipline (completion of a 28 hour residential report writing course). Respondent's primary errors regarding the underlying appraisal were that she had:

1. Adjusted the comps for sales commissions paid since the subject's owner was in real estate; and adjusting for sales concessions on a mechanical dollar-for-dollar basis;
2. Failed to properly summarize the reasoning for her lack of adjustments in finished basement area given considerable differences in such basement area between the subject and the comps;
3. Failed to properly identify in the Reconciliation Section of the URAR in a clear and conspicuous fashion an extraordinary assumption she made that cracking and mold at several places in the foundation was minor and would not require any alteration or repair (Respondent took specific pictures of this cracking, referred to it in her Addendum and stated that she couldn't speculate on cost to cure, but stated that her appraisal was made "as is");
4. Failed to state within her February 29, 2008 revised appraisal report of this subject why the cost approach was omitted, as required, and failed to maintain in her workfile a copy of her original, or first appraisal developed in this assignment and sent to the client the previous day;

Respondent refused to accept the first consent order which was sent to her in October of last year, requiring a Notice of Hearing and Charges to be filed. Respondent also rejected a second Agreed Order that was sent to her counsel in August of this year, and on October 1, 2009, four hour mediation was conducted between the parties with an Administrative Law Judge. The mediation was successful.

At the conclusion of the mediation, Respondent agreed to essentially the same disposition as was included in the August, 2009 version of the Agreed Order, and to the above findings. Respondent also agreed to reimburse the State the costs of Mr. Wiley's expert witness fees (\$750.00), and to pay all costs of the Administrative Procedures Division of the Secretary of State's Office.

Respondent has provided the State with evidence of her completion of the 28 hour residential report writing in late December, 2008.

Commissioner Woodford, as the reviewing Commission member, is in agreement with the negotiated Agreed Order reached after the October 1, 2009 mediation.

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Counsel for the State, Commissioner Woodford, and the Administrative Director recommend that the Commission approve the negotiated Agreed Order which resulted from the October 1, 2009 mediation.

**Vote:** Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**4-10. L09-APP-RBS- 2009001531; 2009001541; 2009001551; 2009001561; 2009001571; 2009001581; and 2009003131 Danny K. Wiley was the Reviewer**

1. In Case No. 2009001531, Complainant alleged over-valuing a residential property in March 24, and April 2, 2008 appraisals on different pages by indicating a value opinion of \$64,000 and by using superior condition comparable sales, omitting a summary of the deferred maintenance of the subject property, failing to analyze and report the sales/transfer history of the subject property, and failing to reconcile value increase indicated since the property last sold. A field review appraisal indicated a value opinion of \$56,500 on March 24, 2008.
2. In Case No. 2009001541, Complainant alleged over-valuing a residential property in an appraisal dated April 10, 2008 by indicating a value opinion of \$104,000 and by failing to reconcile the condition of the subject property with comparable sales used. The Complainant submitted as proof a field review appraisal with the same effective date that indicated a value opinion of the subject of \$78,000. The review appraiser indicated that the subject property was in a neighborhood with a high rate of foreclosure which was not adequately addressed in the Respondent's appraisal and that the market was declining rather than stable as indicated by the Respondent. The reviewer further indicated that most of the financing available in the neighborhood was subprime lending. The reviewer alleged that two of the sales used by the Respondent were "flipped" sales and contained significant seller concessions that were not reported. The reviewer also alleged that the depreciation applied in the Respondent's appraisal was not adequate to market reaction and also that the income approach should have been applied because the subject is located in an area with a high percentage of investor owned properties with an active rental market and that the subject is an investor owned property, not owner occupied. The reviewer indicated that comparable sale one used by the Respondent had a prior sale that was not reported in the appraisal completed by the Respondent.
3. In Case No. 2009001551, the lender- Complainant alleged that the Respondent over-valued a residential property in an appraisal dated May 5, 2008 by indicating a value opinion of \$88,000 when a field review of the same property indicated a value opinion of \$76,000.
4. In Case No. 2009001561, the lender-Complainant alleged that the Respondent over-valued a residential property in an appraisal dated May 2, 2008 by indicating a value opinion of \$73,000 when a field review of the same property indicated a value opinion of \$54,000. In addition, the Complainant alleged that the Respondent failed to disclose the 12 month listing history of the subject property, including that the property was recently listed for \$14,000 and sold for that price

and then subsequently for \$54,600. The Complainant indicated the subject received only cosmetic repairs, including paint and carpet, prior to the appraisal of \$73,000 on May 2, 2008, and that the property was unethically "flipped".

5. In Case No. 2009001571, the lender-Complainant alleged that the Respondent over-valued a residential property in an appraisal dated May 28, 2008 by indicating a value opinion of \$73,000 when a field review of the same property indicated a value opinion of \$61,000. In addition, the Complainant alleged that the Respondent failed to analyze or reconcile the sale history of the subject property, including that the property was sold for \$44,000 on May 9, 2008; that there were viable sales available within the subject's subdivision at the time of the appraisal that were not used by Respondent; and that the property was appraised for \$73,000 one month after its previous sale and had received no updates or improvements in that time.
6. In Case No. 2009001581, the lender Complainant alleged that Respondent overvalued a residential property in a February 22, 2007 appraisal by indicating a value opinion of \$56,000, and that the subject suffers from functional obsolescence which was not analyzed or reported in the appraisal.
7. In Case No. 2009003131, the lender-Complainant alleged that Respondent overvalued a residential property in a May 13, 2008 appraisal by indicating a value opinion of \$66,000. The Complainant submitted a field review appraisal with the same effective date which included a value opinion of \$46,000 as evidence to support the allegations, and also alleged that the Respondent did not disclose the subject's listing history and did not report or analyze the subject's sale history in the report – namely that the subject had sold for \$31,500 and received some upgrades before Respondent appraised it for \$66,000 on May 13, 2008.

#### EXPERT REVIEWER'S FINDINGS

- I. CONCLUSIONS as to the appraisal in Case No. 2009001531 [alleged violations included within brackets]:
  - It appears that the home had recently undergone significant updating, but the appraisal report did not clearly communicate the nature and extent of the updating.
  - The sale price of one of the comparables was inaccurately reported in the MAAR data system, and the incorrect sale price was used in the appraisal report.

#### SUBJECT PROPERTY

- The report notes that the home has been listed in the past year, but there is no analysis of the listing. [SCOPE OF WORK RULE, Problem Identification section]

#### DESCRIPTION OF IMPROVEMENTS

- A/C Unit - The appraisal report states that the home has central heating and cooling. The field review states that the home does not have central heating and cooling.
- The Respondent's field notes specifically indicate the presence of central heating and cooling, and the MLS listing of the subject from the sale in March 2008 also indicates that there is central heating and cooling.
- In a document titled "Response to Field Review," the Respondent stated the central A/C unit was installed at the time of the inspection, but was later removed because the theft of copper from A/C units had accelerated. This is a plausible response.

#### General Description of Property

- The description of the property provided on page 1 of the URAR is not consistent. The condition of all materials is reported as "Avg." However, the report states that the home has been renovated. Field notes supplied by the Respondent specifically note that the home has new carpeting, new linoleum flooring and new interior paint. The notes also indicate repairs to exterior siding, paint and windows. The interior photos in the report appear to be consistent with the field notes.
- It appears that the condition rating of "Avg" was not an accurate reporting of the condition for some items. It also appears that the inaccuracy and lack of detail in reporting the updating that had been done is the primary reason that the field review report resulted in very different conclusions.[SR 2-1(a), SR 2-2(b)(iii)]

#### COMPARISON APPROACH

- The sale price shown for sale 3 is incorrect. The deed shows that the actual sale price was \$25,775.36. In a document titled "Response to Field Review" the Respondent correctly notes that the MAAR data for the property reports a sale price of \$72,800 on 2/2/29/2008. However, the MAAR data also notes that the Assessor's Sales Data indicates a sale price of \$25,775.
- Information available from online deeds shows that on the same day that the home at 618 Leavert (sale 3) was purchased for \$25,775.26 the buyer acquired another property from the same seller, and the sale price was \$72,800. It appears that in the MAAR data the sale price of \$72,800 was recorded on the wrong property.
- More diligence in the verification of the sale would have led to the discovery of this error. Given the accuracy of other sales data in the appraisal report, this appears to be a mistake rather than an intentional act. [SR 1-1(a), SR 1-4(a), SR 2-1(a)].

#### II. CONCLUSIONS as to the appraisal in Case No. 2009001541 [alleged violations included within brackets]:

- The appraisal report notes that the subject was listed in the past year, but there is no analysis of the listing.
- The condition of the property is not reported consistently.
- The report states that the income approach was not completed because a reliable indication of market rent could not be developed, yet the report contains an addendum with rental comparables and a reported market rent for the subject.

#### SUBJECT PROPERTY

- The report notes that the home has been listed in the past year, but there is no analysis of the listing.[SCOPE OF WORK RULE, Problem Identification section]

#### NEIGHBORHOOD

- The field review report submitted with the complaint states that prices were declining rather than stable. The field review report indicates a 7.8% decline in the past year. However, the field review report contains no objective support for that statement. There is no supporting sales data, price study, etc.

- Furthermore, the field reviewer's own analysis contradicts the statement regarding declining prices. In the field reviewer's adjustment grid, no market condition adjustments were applied to any of the sales.

#### DESCRIPTION OF IMPROVEMENTS

- Some of the information presented is contradictory. For example, the floor coverings are reported to be in "Avg" condition, but the report states that the floor coverings have been replaced. It is not clear whether the overall condition is "Good" or "Average," as reported. [SR 2-1(a)]

#### COMPARISON APPROACH

- The appraisal report indicates that the last transfer for Sale 1 was in August 2004. MAAR data reports two transfers of the property in the year prior to the sale reported in the adjustment grid.[SCOPE OF WORK RULE, Problem Identification section, SR 2-1(a)]

#### INCOME APPROACH

- The report states that the income approach is not applicable because the area is primarily owner occupied and, "...no reliable rents could be established." However, the report contains a Single Family Comparable Rent Schedule that reports rents for competing properties as well as an indication of market rent for the subject. [SR 2-1(a), SR 2-2(b)(iii)]
- The market rent is reported to be \$700, but there is no reconciliation of how the amount was derived from the data presented. Comparables are reported, but no adjustments were applied to the comparables. The two comparables that are very similar in size had monthly rents of \$730 and \$795. [SR 1-1(a), SR 2-2(b)(viii)]

#### III. CONCLUSIONS as to the appraisal in Case No. 2009001551 [alleged violations included within brackets]:

- The complaint alleges that the value was inflated due to the use of inappropriate sales. The reviewer found no evidence to support that allegation.
- The description of market conditions appears to be inaccurate.
- The description of the subject is inconsistent.
- It does not appear that the sales data was appropriately verified and analyzed. Prior sales of the subject and comparables were not appropriately disclosed and analyzed.

#### SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. The home sold in the prior year, indicating that it had been offered for sale. The reviewer found an MLS listing for the subject property in the prior year.[SCOPE OF WORK RULE, Problem Identification section]

#### NEIGHBORHOOD

- The field review report sent with the complaint states that prices were declining in the area. However, no information was provided to support that statement.

- The field review also states that there is an over supply of housing. That statement was supported by noting the number of sales and listings in the subject's area. It does appear that at the time of the appraisal there was an over supply of available housing.[SR 1-2(e)(iii), SR 2-1(a), SR 2-2(b)(iii)]

#### PROPERTY DESCRIPTION

- There is conflicting information regarding the condition of the home. The report describes the overall property condition as average. The ratings provided for floors, walls, etc. are all "Avg." However, there are also comments in the report stating that the home has been renovated with new flooring. [SR 2-1(a)]

#### COMPARISON APPROACH

##### Number of Comparables/Listings

- On the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

##### Sale 1

- As noted in the sales comparison approach, this home sold for \$67,000 in July 2007. On 4/1/2007 the home was listed in the MLS with an asking price of \$58,000. MAAR reports that the sale of the home in July 2007 was financed using private or owner financing. It appears that the sale price was significantly affected by the financing. The reviewer attempted to contact the listing agent, but the telephone numbers provided in the MLS listing are no longer working.[SR 1-1(a), SR 1-1(b), SR 1-4(a)]
- The report does not disclose a quit claim transfer of the home that preceded the sale on 7/11/2007. The report also does not disclose a quit claim transfer of the home in May, 2007.[SCOPE OF WORK RULE, Problem Identification section]

##### Sale 3

- The appraisal report indicates that there were no sales concessions. MLS data shows that the home was listed with an asking price of \$69,000, and the sale included \$5,820 in sales concessions. Hence, it appears that the sale price of \$72,000 was affected by sales concessions, and an adjustment should have been applied.[SR 1-1(a), SR 1-4(a)]

#### SUBJECT'S SALES HISTORY

- The appraisal report indicates three transfers of the subject in the three years prior to the effective date. The report indicates that the sale on 5/09/2008 was "below market value." There is no analysis of the other reported transfers.[SR 1-5(b), SR 2-2(b)(viii)]

#### INCOME APPROACH

- The appraisal report indicates that the income approach was not developed because the subject is in an area where owner occupancy is predominant and, "...no reliable rents could be established." This statement is contradicted by the inclusion of a comparable rent schedule in the appraisal report. The reviewer's research revealed several MLS listings indicating tenant occupancy.[SR 2-2(b)(viii)]

IV. CONCLUSIONS as to the appraisal in Case No. 2009001561 [alleged violations included within brackets]:

- The complaint alleges that the value was inflated due to the use of inappropriate sales. The reviewer found no evidence to support that allegation.
- It appears that dated information was used for sale 1.
- Prior sales of the subject were not appropriately disclosed and analyzed.

SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. The home sold in the prior year, indicating that it had been offered for sale. The reviewer found no MLS listings for the subject property in the prior year. [SCOPE OF WORK RULE, Problem Identification section]

NEIGHBORHOOD

- The field review report sent with the complaint states that prices were declining in the area. However, no information was provided to support that statement.

PROPERTY DESCRIPTION

- There is conflicting information regarding the condition of the home. The report describes the overall property condition as average. The ratings provided for floors, walls, etc. are all "Avg." However, there are also comments in the report stating that the home has been updated, including new flooring.[SR 2-1(a)]

COMPARISON APPROACH

Number of Comparables/Listings

- On the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

Sale 1

- The appraisal report states that this home has a carport. The MLS states that the home has a new garage, and the MLS photo clearly shows the garage. It appears that the appraiser used old data, including an old photograph of the home. There is also a large wood privacy fence that is not addressed in the adjustment grid. [SR 1-4(a), SR 2-1(a), SCOPE OF WORK RULE, Problem Identification section]

SUBJECT'S SALES HISTORY

- The appraisal report indicates one transfer of the subject in the three years prior to the effective date. The report indicates that the sale on 4/28/2008 was "below market value." Online public records indicate multiple transfers of the subject in the three years prior to the effective date of the appraisal.
- The owner of the property acquired it approximately 2 weeks prior to the effective date of the appraisal. There was neither disclosure nor analysis of that sale in the appraisal report. HUD acquired the home in a foreclosure action in February 2008. The report contains neither disclosure nor analysis of that transfer.[SR 1-5(b), SR 2-2(b)(viii)]

V. CONCLUSIONS as to the appraisal in Case No. 2009001571 [alleged violations included within brackets]:

- The complaint alleges that the value was inflated due to the use of inappropriate sales. The reviewer found no evidence to support that allegation.
- Several minor issues were noted in the appraisal report. There is inconsistent information regarding the condition of the home. Prior sales of the subject and comparables were not all disclosed and analyzed.

SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. The home sold in the prior year, indicating that it had been offered for sale. The reviewer found no MLS listings for the subject property.[SCOPE OF WORK RULE, Problem Identification section]

NEIGHBORHOOD

- The field review report sent with the complaint states that prices were declining in the area. This is supported in the field review report with Chandler data for the zip code. However, no information specific to the subject's market area was provided.

PROPERTY DESCRIPTION

- There is conflicting information regarding the condition of the home. The report describes the overall property condition as average. The ratings provided for floors, walls, etc. are all "Avg." However, there are also comments in the report stating that the home has been renovated with refinished wood floors, new carpeting, new paint, etc.[SR 2-1(a)]

COMPARISON APPROACH

Number of Comparables/Listings

- On the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

Sale 1

- In the cell for reporting sales concessions the response provided is "None Known." MAAR Data indicates sales concessions of \$3,990. The home is reported to have a carport. It actually has a garage. These are errors, but neither would significantly affect the analysis.

Sale 2

- The report contains no disclosure or analysis of a transfer of this home in July 2007. [SCOPE OF WORK RULE, Problem Identification section]

Sale 3

- In the cell for reporting sales concessions the response provided is "None Known." MAAR Data indicates sales concessions of \$2,188. This is not considered a significant omission.
- MLS data indicates that sales 2 and 3 had been updated. Sale 2 appears to a foreclosure sale. It is unclear how the condition of this home was verified.

## SUBJECT'S SALES HISTORY

- The appraisal report indicates three transfers of the subject in the three years prior to the effective date. The report indicates that the sale on 5/09/2008 was "below market value." There is no analysis of the other reported transfers.[SR 1-5(b), SR 2-2(b)(viii)]

## VI. CONCLUSIONS as to the appraisal in Case No. 2009001581 [alleged violations included within brackets]:

- The value conclusion appears to have been intentionally inflated. None of the sales used in the comparison approach were reported in the MLS system. There were several sales in the area that were reported in the MLS system. These sales were all at prices less than half the sale prices of the sales used.

## SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. The home is reported to be under contract, indicating that it had been offered for sale. The reviewer found no MLS listings for the subject property in the prior year.[SCOPE OF WORK RULE, Problem Identification section]

## CONTRACT

- The report contains no analysis of the sales contract. The sale price is reported, but the contract date is not reported. There are no comments on the sales contract.
- The workfile material provided by the Respondent does not include a copy of the contract.
- The sale price is hand written on the appraisal order form. It appears that the Respondent did not have a copy of the actual sales contract. In such cases, the report must disclose that fact as well as the steps taken by the appraiser to obtain a copy of the contract.[SR 1-1(b), SR 1-5(a), SR 2-2(b)(viii)]

## SITE DESCRIPTION

- The site description is consistent with data found by the reviewer. The report does not disclose that the subject property is adjacent to commercial property. The complaint alleges that the location creates external obsolescence. The reviewer could find no evidence to support that claim.

## PROPERTY DESCRIPTION

- The property description is consistent with data found in MAAR and MLS. The report includes interior photographs of the home.

## COMPARISON APPROACH

### Number of Comparables/Listings

- On the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

#### Sale 1

- Sale 1 sold in September 2006 for \$2,500. The appraisal report states that, "Comp 1 purchased under market value and probably renovated to return to market value." This statement indicates that the prior sale of this home was not adequately analyzed.[SCOPE OF WORK RULE, Problem Identification section]

#### Sale 2

- A quit claim transfer of the property in April 2006 was not disclosed.[SCOPE OF WORK RULE, Problem Identification section]

#### Sale 3

- The appraisal report indicates that this property sold in April 2005 for \$9,000. It actually sold in April 2006 for \$9,000. That sale was reported in the local MLS system. There was also a foreclosure action on the property in February 2006. That transfer was not disclosed.
- The sale reported in the adjustment grid (\$60,000 in September 2006) is suspect; there was a foreclosure action on the home less than one year later, and the home sold in August 2007 for \$6,200.[SCOPE OF WORK RULE, Problem Identification section]

#### Selection of Comparables

- The subject is in MLS area 742D. The MLS reports over 70 sales in that area in the year prior to the effective date. Of those sales, 8 involved homes having between 650 and 900 square feet and built prior to 1950. The sale prices for these 8 sales ranged from \$8,500 to \$23,500. None of these sales were reported in the adjustment grid.
- None of the sales reported in the comparison approach were reported in the MLS system. The sales used in the comparison approach are not consistent with the sales data found in the MLS system.
- Comments contained in the appraisal report indicate that the sales history for comparable 1 was not adequately verified. Available data indicates that the sale prices reported for the comparables sales did not reflect typical and arms-length transactions. If these sales were typical for the area, then supporting and/or similar sales data could be found in the MLS system.[SR 1-1(b), SR 1-4(a), SR 2-1(a), ETHICS RULE, Conduct section]

#### BIAS

- It appears that the analysis presented was an attempt to justify a sale price that had been provided to the appraiser rather than an independent and objective analysis of applicable market data. The sales data available in the MLS system indicates that the analysis presented in the appraisal report is not credible.[ETHICS RULE, Conduct section]

#### INCOME APPROACH

- The report states that the income approach was not developed because there was insufficient data available for estimating the market rent. This statement is contradicted by the inclusion of a comparable rent schedule in the appraisal report.[SR 2-2(b)(viii)]

#### VII. CONCLUSIONS as to the two appraisals in Case No. 2009003131 [alleged violations included within brackets]:

#### APPRAISAL A

- The listing history of the subject was not reported.
- Information regarding the sales history of the subject and comparables was incomplete.
- The property description is not consistent with comments made in the Respondent's response letter regarding the complaint.

#### SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. The home sold in the prior year, indicating that it had been offered for sale. The reviewer found no MLS listings for the subject property.[SCOPE OF WORK RULE, Problem Identification section]

#### PROPERTY DESCRIPTION

- The condition of the home at the time of the appraisal is not clear. The report describes the property condition as average. No specific updates are noted in the appraisal report. In a response letter to TREAC the Respondent indicated that there had been "upgrades and repairs." [SR 2-1(a)]

#### COMPARISON APPROACH

##### Number of Comparables/Listings

- On the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

##### Sale 1

- Multiple data sources indicate that this home has 1.5 baths rather than 1 bath as indicated in the appraisal report. Application of an appropriate adjustment would lower the value indication from this sale, but would have minimal effect on the overall analysis.

##### Sale 3

- The report does not include disclosure and analysis of all transfers of this home in the year prior to the sale reported in the adjustment grid. A transfer in 02/2007 is not reported. [SCOPE OF WORK RULE, Problem Identification section]

#### SUBJECT'S SALES HISTORY

- The appraisal report indicates three transfers of the subject in the three years prior to the effective date. The report indicates that the sale in 3/17/2008 was "below market value." There is no analysis of the other reported transfers. Furthermore, public records indicate additional transfers in the three years prior to the effective date. The home sold in 2006 for \$65,000. That sale is not reported.[SR 1-5(b), SR 2-2(b)(viii)]

#### APPRAISAL B

- The description of the subject property is inconsistent.
- The listing history of the subject was not reported.
- An incorrect photo was supplied for sale 1.
- The sales history for sale 1 does not match available data.

## SUBJECT PROPERTY

- The appraisal report indicates that the home has been listed within the past year, but there is no analysis of the listing history. This information is required by applicable assignment conditions. [SCOPE OF WORK RULE, Problem Identification section]

## PROPERTY DESCRIPTION

- The property description is inconsistent. In the cell for describing flooring, the appraisal report indicates, "Cpt/Lino/Avg." However, comments in the narrative section of the report indicate that the home has new carpeting and new linoleum. This conflicting information makes the actual condition of the home unclear. [SR 2-1(a)].

## COMPARISON APPROACH

### Number of Comparables/Listings

- One the top of page 2 of the URAR, the report indicates that there are "20+" comparable listings and "20+" comparable sales. The number of comparable sales and the number of current listings provides a gauge of supply and demand. The specific number of sales and listings must be provided.[SCOPE OF WORK RULE, Problem Identification section]

### Sale 1

- The photo provided for sale 1 is incorrect. This was noted in the field review report and confirmed by use of MAAR data and satellite imagery.[SR 2-1(a)]
- The appraisal report indicates two transfers of this property in the year prior to the sale reported in the adjustment grid. These transfers are reported, but not analyzed. The transfer history reported for this home is not consistent with the data found in online public records. [SCOPE OF WORK RULE, Problem Identification section]

## Prior Complaint/ Disciplinary History: None

**Recommendation and Reasoning:** Counsel for the State and the Administrative Director would recommend that the Respondent be offered a consent order imposing a minimum of a 2 year suspension, a \$5,000 civil penalty, reimbursement of Mr. Wiley's fees (or greater discipline if the Commission so believes), with no ability for an informal conference. If Respondent rejects such a proposal, a formal proceeding should be commenced.

**Vote:** Mr. Wade made the motion to offer the Respondent a settlement offer of permanent voluntary surrender, and if that offer is rejected to proceed to formal hearing. Dr. Baryla seconded the motion. The motion carried unopposed.

## 11. L09-APP-RBS-200900835 Danny Wiley was the Reviewer

This complaint was filed by consumers and alleged that the Respondent under-valued a residential property on April 20, 2009 by rendering a value opinion of \$430,000. The Complainant stated the property was under contract for \$469,000 and submitted an additional appraisal they obtained subsequently as evidence which included a value opinion of \$470,000 with an effective date of April 24, 2009. The Complainant also alleged that the Respondent misreported the number of rooms, used inappropriate lot sales, and inappropriate improved comparable sales.

The Respondent explained that he has geographic competency in the subject's market area because of his fifteen years experience as an appraiser and over 30 years as an Affiliate Broker in the middle Tennessee area. The Respondent stated he made a detailed sketch of the subject property and asked the listing agent questions regarding the upgrades to the subject property during his inspection of the subject. He admitted he made an error on the room count on the first page of the report and in the sales grid, but added that the market value was not based on the room count. The adjustments made in the sales grid were for number of baths. He wrote that he used the best lot sales available to determine site value, but that sales were limited that were similar to the subject site. The Respondent indicated he analyzed sales, listings, and a pending sale in determining his market value opinion for the sales comparison approach. He stated the first two sales used were the most recent in the subject's development and the third was a more recent sale in a nearby similar subdivision. He stated all have similar upgrades/improvements to the subject's.

EXPERT CONCLUSIONS as to this appraisal [alleged violations included within brackets]:

- The quality of the appraisal report is good. It provides good support for the assignment results. The reviewer noted no significant errors or omissions.

SUBJECT PROPERTY

- This section of the report appears to be complete and accurate.

NEIGHBORHOOD

- The neighborhood description is better than the neighborhood description found in the majority of residential appraisal reports. Specific, relevant and accurate information is provided.

SITE DESCRIPTION

- This section of the report appears to be complete and accurate.

PROPERTY DESCRIPTION

- Most of the information presented appears accurate. The Respondent admits that the room count shown in the report is incorrect. This is a minor error that would have no effect on the appraisal.

COMPARISON APPROACH

The sales reported are all relevant sales. The information appears accurate, and the analysis appears reasonable.

COST APPROACH

- As noted in the appraisal report, the cost approach is not a good value indicator for homes as old as the subject.
- The complaint alleges that the site value is incorrect. There have been no recent lot sales in the subject's development. There have been very few relevant lots sales in the Brentwood area over the past few years. The lot sales included in the report are not ideally similar, but they appear to be among the best available.

GEOGRAPHIC COMPETENCY

- The complaint alleges that the Respondent lacks the geographic competency to complete the assignment. This allegation appears to be based solely on the fact that the Respondent's business address is in South East - Central Tennessee (toward Chattanooga) and the subject property is in Brentwood.
- The reviewer found nothing in the appraisal report or in the workfile material to indicate a lack of geographic competency. To the contrary, the information researched and analyzed indicates that the Respondent was well qualified and competent to complete the assignment.

**Prior Complaint / Disciplinary History:** None

Recommendation and Reasoning: Counsel for the State and the Administrative Director recommend dismissal of this complaint due to the apparent lack of USPAP violations.

**Vote:** Mr. Flowers made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

.....

Being no further business, the meeting was adjourned at 10:00 a.m.

---

Chairman, Herbert E. Phillips

---

Nikole Avers, Administrative Director