



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
REAL ESTATE APPRAISER COMMISSION**

**500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243-1166  
615-741-1831**

**April 13, 2009**

**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met April 13, 2009, at 9:45 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairman, James E. Wade, Jr., called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

James E. Wade, Jr.  
Herbert Phillips  
Marc Headden  
Thomas R. Carter  
Kenneth Woodford  
William R. Flowers, Jr.  
Dr. Edward A. Baryla

**COMMISSION MEMBERS ABSENT**

Jason West  
Najanna Coleman

**STAFF MEMBERS PRESENT**

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

**ADOPT AGENDA**

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

**MINUTES**

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

**GENERAL BUSINESS**

**Experience Interviews**

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Jane "Lindsay" Schaffler Piretti made application to upgrade from a registered trainee to become a State licensed real estate appraiser. Mr. Carter was the reviewer and he recommended approval of her experience. Mr. Phillips made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Patricia A. Duermeier made application to upgrade from a registered trainee to become a State licensed real estate appraiser. Mr. Phillips was the reviewer and he recommended approval of her experience. Mr. Phillips made the motion to accept the recommendation and Ms. Coleman seconded the motion. The motion carried unopposed.

James E. Barnes made application to upgrade from a State licensed real estate appraiser to become a certified residential appraiser. Mr. Headden was the reviewer and recommended approval of his experience. Mr. Woodford made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

### Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendation to the Commission. Mr. Headden made the motion to accept the recommendation as written. Mr. Woodford seconded the motion. The motion carried unopposed.

### EDUCATION COMMITTEE REPORT

Course Provider	Course Number	Course Name	Instructors	Hrs.	Type	Rec. from Dr.
Baryla						
THE SPEARMAN CENTER	1283	Analyzing Market Conditions & the 1004 MC	W. Lewis Spearman	7	CE	Recommend for
APPRAISAL INSTITUTE	1284	General Appraiser Income Approach, Part 2	Gary P. Taylor	30/27	QE/CE	Recommend for
APPRAISAL INSTITUTE	1285	General Appraiser Income Approach, Part 1	Gary P. Taylor Ron DeVries	30/27	QE/CE	Recommend for
MCKISSOCK, INC	1286	New Fannie Mae Form 1004MC & More	Kenneth Guilfoyle	7	CE	Recommend for
TREES/TAPS	1287	Supervising Beginning Appraisers: Plan for Success	Ron Oslin Vicki Boyd Bill Wilson	7	CE	Recommend for
TREES/TAPS	1288	Statistics, Modeling & Finance	Ron Oslin Vicki Boyd Bill Wilson	16/15	QE/CE	Recommend for
TREES/TAPS	1289	Mastering Unique & Complex Property Appraisal	Ron Oslin Vicki Boyd Bill Wilson	22/20	QE/CE	21/19: 980 minutes/50 = 19.6 + 2 hours for exam
COLUMBIA INSTITUTE	1290	Practice of Residential Appraising, No. 311	Boarnet, Brown, Guilfoyle Harrison, Henderson, Jacob, Reynolds	20 22?	QE/CE	1050 minutes – 90 assessment minutes = 960 contact minutes/50 = 19.2 20/19
COLUMBIA INSTITUTE	1291	Residential Sales Comparison & Income Approaches, No. 411	Boarnet, Brown, Guilfoyle Harrison, Henderson, Jacob, Reynolds	30/28 32?	QE/CE	30: 1520 minutes/50 = 30.4 + 2 hours exam 32/30
THE AWARENESS GROUP	1292	Meth Lab Awareness/NA	Ken Poteet	3	CE	Recommend for

#### Individual Course Approval

Name	License #	Provider	Course Name	Hrs	Type	Rec. from Dr. Baryla
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Philip R. Russ	100	Appraisal Institute	Feasibility Analysis, Market Value & Investment Timing	7	CE	Recommend for
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**LEGAL REPORT**

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

**James Studeman** (approved 3/09) - signed Consent Order agreeing to revocation of his Tennessee certified residential certification based on reciprocal discipline with Florida and North Carolina, where his certificates were revoked in 2007 and 2008, respectively, for violations of the Ethics Rule, Conduct Section, and Standards 1 and 2 of USPAP.

**Russell J. Bouchard** (approved 2/09) – signed consent order agreeing to a 30 day suspension of his certified residential certificate, and a \$500 civil penalty, in that he admitted committing a serious and substantial error in his land adjustment for a comparable by typing in \$1,500 when it in fact should have been a negative \$15,000, and that he over-valued the subject property by 10% based on this error. Respondent admitted violations of SRs 1-1(b) and (c) within this order.

**1. L08-APP-RBS-2008006881 Commissioner Carter was the Reviewer**

Commissioner Carter reviewed 11 of Respondent’s appraisal reports – 1 narrative; 1 exterior only inspection residential report; 1 desktop underwriter quantitative analysis report; and 7 URARs. The complainant, a former trainee, alleged lack of supervision by Respondent on inspections and report writing, and that Respondent over-valued properties and favored the cause of clients.

Commissioner Carter found 10 of the reports to be in compliance with USPAP.

As to the 11<sup>th</sup> review, Commissioner Carter found that several pages were missing throughout the report, there was no transmittal letter, and several typographical errors throughout the report. There was no certification included within the report; no land sale data was provided to support the site value in the cost approach; and no explanation was provided to set forth how the physical depreciation was calculated in the cost approach. Commissioner Carter also found that the adjustments in the sales comparison approach to be excessive to the point that the properties do not appear to be comparable at all, and that the Respondent did not determine and perform the scope of work necessary to develop credible assignment results.

As to this report, Commissioner Carter concludes that the Respondent violated SRs 1-1(a), (b) & (c), 1-4(b)(i) & (iii), and the Ethics Rule, Conduct Section and the Scope of Work Rule of USPAP..

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Commissioner Carter recommends that the Respondent be offered a consent order imposing a \$1,000 civil penalty and that he be required to complete a basic appraisal course (30 hours); a 15 hour USPAP course, and a Site Valuation/Cost Approach course (15 hours) within 120 days after the effective date of the order (with no continuing education credit). Respondent should be

offered the opportunity for an informal conference. Should he reject this proposal, a formal proceeding should be commenced.

**Vote:** Mr. Headden made the motion to accept the recommendation as written. Mr. Flowers seconded the motion. The motion carried unopposed.

**2. L08-APP-RBS-2008017841 There was no Reviewer**

This complaint was closed and flagged in November of last year after we determined that there was insufficient evidence that the Respondent had taken work files and/or appraisal reports of his prior employer. The complaint was filed by the Respondent's father-in-law, a certified residential appraiser. Respondent denied any wrongdoing, and contended that he took to his new practice computer disks containing the appraisal reports he worked on (provided substantial assistance regarding) while working for his father-in-law as a trainee. Respondent also continued to work with the father-in-law after being certified as a certified residential appraiser. Respondent claimed he returned the computer disks to a member of the Complainant's support staff last August, and that he did not take or copy any appraisals which he did not personally provide substantial assistance on.

Unbeknownst to counsel and the Administrative Director, Respondent was arrested in early October of last year on a charge of "computer offense", upon a warrant taken out by his father-in-law. On January 27, 2009, Respondent entered a "conditional plea of guilty" under T.C.A. § 40-35-313 to this misdemeanor offense, which resulted in his being placed on 6 months of judicial diversion. If Respondent complies with the terms of this diversion, in late July he will have the charges dismissed and his criminal record expunged. Respondent continues to deny wrongdoing and asserts he entered into this conditional diversion plea to get the matter over with. Once the dismissal and expungement are entered, there will be no conviction, and practically speaking, no basis upon which to seek discipline against him.

The Complainant requested this file to be reopened in February of this year based upon the Respondent's conditional plea.

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Counsel for the Commission and the Administrative Director recommend that the Commission decide that this complaint should remain closed as was the determination in November of 2008.

**Vote:** Mr. Flowers made the motion to accept the recommendation as written. Mr. Woodford seconded the motion. The motion carried unopposed.

**3. L08-APP-RBS-2008021461 Commissioner Wade was the Reviewer**

**4. L08-APP-RBS-2008021462**

These complaints are treated together. Case No. 3 is the complaint against the supervising Tennessee certified residential appraiser; Case No. 4 is the complaint against the registered trainee working under the supervisor. The property appraised in the June 2, 2008 URAR was a log home located in Virginia. The supervising appraiser allowed the trainee to sign the transmittal letter, and identify himself at several points within the report as "appraiser", and to refer to him as "appraiser" on the signed certification without clarifying that he was only a trainee. Both Respondents use Tennessee comparables in an appraisal of a

Virginia property, and the supervising appraiser (certified in TN and VA) signed the certification of this VA property using his TN certification.

Commissioner Wade's findings and conclusions are as follows:

**Cover Sheet:**

The cover sheet (page 2 of the report) indicates that the appraisal is by \_\_\_\_\_. \_\_\_\_\_ is only an **appraiser trainee** in the State of Tennessee. Based on the information in the report, \_\_\_\_\_ is not a licensed trainee in the State of Virginia. The supervising appraiser name, \_\_\_\_\_, does not appear on the cover sheet. This is misleading. [Ethics Rule Violation]

**Transmittal Letter:**

The supervising appraiser does not sign this letter. The letter is signed by the trainee. The letter is misleading in that it holds the trainee out to be an appraiser, when he is only a trainee in the State of Tennessee and may not be a trainee in the State of Virginia. [Ethics Rule Violation]

The last line in paragraph 2 of the letter states that *the appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice*. Based on the contents of the report, this is a misleading statement.

**Summary of Salient Features:**

Same as before, the trainee is shown to be the appraiser. [Ethics Rule Violation]

**Subject's Legal Description:**

The appraiser does not summarize the legal description or include a copy of the legal description in the report. He provides a Deed Book and Page, which in my judgment is inadequate for a summary report, because it does not provide pertinent information needed to understand the appraisal report. [SR 1-1 (b)]

**Contract:**

Although a minor error, the report reflects a *Date of Contract 06/02/2008*. Since the property is not being sold, this indicates that the appraiser did not properly review the report. [SR 1-1 (c)]

**Neighborhood:**

The report indicates that property values in the subject neighborhood are stable, that supply and demand is in balance, and that marketing time is 3-6 months, but fails to mention the declining economic conditions that were beginning to take place at that time. The appraiser has failed to support his conclusions as required in USPAP. [SR 1-1 (b)] Also, the appraiser does not address exposure time. [SR 1-1(c)]

**Site:**

The subject site dimensions are not provided as requested on the Form 1004 or in the addenda. They are only described as *Irregular*. The map that the appraiser includes in the addenda appears to show only a portion of parcel 41A and does not discuss access. In viewing the map, the question of easement access seems to be a logical question, yet it is not addressed by the appraiser. The street type is shown as asphalt. Based on the photographs and the complaint, the street is a gravel roadway. The appraiser is incorrect. [SR 1-2 (e); SR 2-2 (b)(iii)]

**Description of Improvements:**

From the information provided in the complaint, the appraiser failed to provide an accurate description of the materials and condition of the floor cover, trim, bath tub, and stairway of the improvements. The complaint indicates that there are no hardwood floors or carpet in the dwelling. The appraiser states that several of these are in above-average condition, which is reputed by the complainant. The window type is shown as *double hung or casement*. The complainant indicates that many of the windows are *fixed pane*. The appraiser indicates that the driveway is a 10 car driveway. Typically, this is the width of the driveway, which is 1 or 2 cars. The effective age of the dwelling is indicated to be 15 years, but the dwelling is approximately 24 years old. The appraiser does not provide an explanation for the difference in the actual age and his effective age estimate. The appraiser indicates the room count to be 6/4/2, but the information provided on page 14 is inconsistent with this information. [SR 1-2 (e); SR 2-2 (b)(iii)]

**Sales Comparison Approach:** Although Commissioner Wade understands the difficulty that occurs many times in finding log homes, the comparables used are all located in the State of Tennessee. The appraiser failed to use a single comparable sale in the State of Virginia, where the subject property is located. The appraiser did not explain why he only used sales of properties in another state as comparables. He only states that *comparables were selected from over 1 mile due to the low buildup in the subject market area and the log construction*.

Adjustments in the sales comparison approach were unsupported in the appraisal report and appear inconsistent with market data. The appraiser fails to adjust for the detached 1 car garage of comparable 1. The 160 square foot storage building of the subject property is valued at \$12.50 per square foot, while the unfinished basements are valued at only \$5.00 per square foot. A disparity appears to exist here.

Equal consideration in the analysis was given to Sale 1, an out-of-state foreclosure property. The unadjusted price per square foot prices of comparables 1 through 3 are \$52.88, \$103.70, and \$62.46, respectively. The adjusted price per square foot prices of comparable 1 through 3 are \$55.65, \$121.87, and \$61.75, respectively. The indicated value of the property by the sales comparison approach per the appraiser is \$58.82 per square foot. It is difficult to understand how all three comparables can be *weighted relatively equally* as indicated by the appraiser, when sale 1 is a foreclosure sale and sale 2 is 48% smaller than the subject property in size with a \$30,000.00 adjustment. The true comparability of the location, quality, and condition of the sales used in the analysis are questionable. The appraiser does not provide adequate explanation and/or analysis in his Summary of Sales Comparison Approach. [Competency Rule; SR 1-4 (a); SR 2-2 (b)(iii)]

**Cost Approach:**

Cost data is reported to be from Marshall and Swift and local cost data. The cost data used appears to be within acceptable limits based on Marshall and Swift Residential Cost Handbook. The amount of depreciation using a 15-year effective age is considered reasonable.

**Income Approach:**

Appropriately, the income approach to value is not used in the report.

**Reconciliation:**

The reconciliation used for the three approaches to value is considered reasonable.

**Addendum Pages:**

On page 8 of the report, the appraiser states that the Intended Use of this appraisal is *for a mortgage finance transaction*, while on page 5 he states that the purpose of the assignment is for *Market Valuation*. The appraiser has used the Form 1004 form for a client other than Fannie Mae or Freddie Mac. The Intended Use stated is incorrect. [SR 1-1 (c); SR 2]

In number 7 on page 9 of the report, the appraiser certifies that he *selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property*. Based on the appraiser selection of all of the comparable sales in Tennessee, I believe that this certification is incorrect. [Ethics Rule]

In numbers 21 and 23 on page 10 of the report, the certification is not appropriate for this report and is used for Fannie Mae and Freddie Mac purposes. [Ethics Rule]

On page 10, the trainee signed the report certification as only registered in the State of Tennessee with a number following. He did not indicate that he only held a trainee's license. The appraiser and the trainee are identified in this report in a potentially misleading manor to the intended user of the report. [Ethics Rule]

The appraiser signs the report using a State of Tennessee State Certification Number. He does not indicate that he has a State of Virginia Appraiser's License. This is misleading. [Ethics Rule]

On page 11 of the report, the appraiser only provides a front view of the subject property. This brings up a question regarding the extent of the inspection. [Ethics Rule]

As previously reported, the map on page 13 of the subject site is incomplete. [SR 1-1 (c)]

In the appraiser's response to the complaint, the appraiser submitted an unsigned certificate with a different license number. Instead of the State of Tennessee license number, he changed to a State of Virginia license. This is both misleading and fraudulent. [Ethics Rule]

#### **Violation of the Rules of Tennessee Real Estate Appraiser Commission**

The appraiser is in violation of Rule 1255-1.12 (c) of the Rules of Tennessee Real Estate Appraiser Commission relating to the obligations of a Supervising Appraiser.

**Prior Complaint / Disciplinary History:** As to supervising appraiser: 2005040045 (closed with letter of warning); as to both: 200801999 (dismissed)

**Recommendation and reasoning:** Commissioner Wade recommends that the supervising appraiser be offered a consent order imposing a \$5,000.00 civil penalty, and that he successfully complete a 15-hour USPAP class, a 30-hour residential sales comparison and income approach class, and a 5-hour business practices and ethics class with no credit given toward the 2-year continuing education requirements. The courses are to be completed within 6 months after the effective date of the order. Respondent should be offered the opportunity for an informal conference, and if the Respondent does not agree to the recommended penalty, Commissioner Wade recommends that the Tennessee Real Estate Commission authorize a formal proceeding be commenced seeking the suspension or revocation of his appraiser's certificate.

As to the registered trainee, Commissioner Wade recommends that the trainee be offered a consent order (with the ability for an informal conference) imposing a \$1,000.00 civil penalty, and that he successfully complete a 15-hour USPAP class, a 30-hour residential sales comparison and income approach class, and a 5-hour business practices and ethics class with no credit given toward the 2-year continuing education requirements. The courses are to be completed within 6 months after the effective date of this order. If the trainee does not agree to this penalty, Commissioner Wade recommends that a formal proceeding be commenced seeking the revocation of his trainee's registration certificate.

**Vote:** Mr. Flowers made the motion to accept the recommendation as written. Dr. Baryla seconded the motion. The motion carried unopposed.

**5. L08-APP-RBS-2008025151 Commissioner Wade was the Reviewer**

The Complainant, consumers, alleged that the Respondent over-valuing a residential property.

The Respondent stated in his response that he disagreed that he over-valued the property. He sent in a copy of the appraisal report and workfile as support for this assertion.

Commissioner Wade's findings and conclusions as to violations of USPAP are as follows:

**General USPAP Issues:**

**Ethics Rule-Conduct:**

An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. [Ethics Rule]

**Exposure Time:**

The appraiser did not develop an opinion of exposure time linked to the value opinion. [SR 1-2 (c)]

**Subject:**

The information provided is acceptable.

**Contract:** The appraiser did not analyze the agreement of sale. [SR 1-5]

**Neighborhood:**

The neighborhood information provided by the appraiser is acceptable.

**Site:**

The appraiser did not identify or address the TVA easement that was mentioned by the complainant. [SR 1-2 (e)(iv)]

**Description of Improvements:**

The subject improvements were not accurately or adequately described. The property is reported to have a full basement, but the sketch provided indicates that structure has on a partial basement. The report does not indicate if the basement has an 'outside entry'.

The sketch indicates that the dwelling only has 6 or 7 rooms (if laundry is counted). The form indicates that the dwelling has 8 rooms. [SR 1-1(b) & (c); SR 1-2(e); SR 2-2(b)(iii)]

**Sales Comparison Approach:**

Sale 1 is adjusted a +\$50,000.00 for what is described as a very good lake view and compared with an average lake view. No analysis is given for this adjustment. The adjustment appears to increase the final value of the subject property by an arbitrary \$50,000.00. Also, no adjustment is made for the lot size of sale 1, which is nearly twice the size of the subject property.

Sale 2 has a 3.4 acre site compared with the 0.85 acre site of the subject property. The appraiser only adjusts -\$40,000.00 (\$15,686.27 per acre) for the difference in the size of the sites. Again, the appraiser indicates that the 0.85 acre subject site value is \$300,000.00. The appraiser gives no analysis. The property assessor has the value of the site of sale 2 at \$280,600.00 and the site value of the subject property at \$120,000.00. It appears that the low dollar minus adjustment used by the appraiser does inflate the final value opinion of the subject property.

The building quality of the subject is described by the assessor as "above-average" as are comparables 1 and 3. The building quality of comparable 2 is described as "average" by the property assessor. The appraiser made no adjustments for the differences in quality.

The appraiser uses only \$35.00 per square foot for the gross living area adjustments of sale 1 and 2. For sale 3, he only uses \$21.02 per square foot. The depreciated cost per square foot is approximately \$105.00 per square foot. Sale 2 is 955 square feet smaller than the subject in heated area. Sale 3 is 2,499 square feet larger than the subject in heated area. The dollar per square foot adjustments appears low for an above-average quality residence. The appraiser fails to explain how he arrived at the different per square foot dollar adjustments.

The appraiser gives no analysis for the effective age/age adjustments.

Also, the large heated area size differences of comparable sale 2 and comparable sale 3 and the subject are so great that one must ask if they are truly comparable properties.

The appraiser indicates that sale 1 only has 1,040 square feet of unfinished basement. The property assessor indicates that property has 772 square feet of unfinished basement and 772 square feet of finished basement. There is a discrepancy in the information used by the appraiser and the public records. The appraiser provides no analysis.

[SR 1-1(b) & (c); SR 1-4 (a); SR 2-2 (b)(iii)]

**Sales History:**

The appraiser did not analyze the prior sale and transfer history of the subject property. The property sold on March 19, 2004 for \$439,000.00 for \$251,000.00 less than the \$690,000.00 appraised value. [SR 1-5(b)]

**Site Value:** The appraiser failed to develop an opinion of site value by an appropriate appraisal method or technique.

[SR 1-1; SR 1-4 (b)(i)]

**Cost Approach:**

The cost approach reports the quality of the subject as very good. The improvements do not reflect very good quality. [SR 1-1(b)(c); SR 1-4 (b)(ii)]

After completing this appraisal review on the appraisal report captioned above, Commissioner Wade is of the opinion that given his scope of work, the report by the Respondent is incomplete due to substantial errors of omission or commission that significantly affect the appraisal. The accuracy of the data is in question. The appraisal services were rendered in a careless or negligent manner, such as by making a series of errors that in total may affect the value conclusion.

**Prior Complaint/Disciplinary History:** None

**Recommendation and reasoning:** Commissioner Wade recommends due to errors in the above mentioned report and having no prior complaints filed against the Respondent, that the Respondent be offered a consent order (with the opportunity for Respondent to have an informal conference) requiring him to attend and complete the following educational courses with a passing grade within 6 six months after the effective date of this order: a 30 hour residential sales comparison and income approach course and a 15 hour residential site and valuation course, and with the recommendation that the Respondent receive credit toward his continuing education requirements for this year.

If the Respondent does not accept this proposal, a formal proceeding should be commenced.

**Vote:** Mr. Flowers made the motion to accept the recommendation as written. Mr. Headden seconded the motion. The motion carried unopposed.

#### **6. L09-APP-RBS-200900851 Commissioner Carter was the Reviewer**

This complaint, filed anonymously, alleged that the Respondent failed to analyze neighborhood market conditions, failed to report market conditions, failed to analyze and reconcile seller concessions of comparable sales, over-valued the site by indicating a value of \$18,000 without support, and over-valued a residential property in an appraisal dated 10/16/2006 by indicating a value opinion of \$52,000.

The Respondent stated in his response letter that he disputes the allegation that the subject is located in an unstable neighborhood of slow growth and declining property values and the area reflected many foreclosures. To support his claim, the Respondent included sales from the subject neighborhood in the year prior to the appraisal and pointed out an average increase in sale price per square foot from \$35.92 to \$41.50. The Respondent stated that pertaining to any sales concessions for comparable sale 2, that he personally spoke with the listing agent at the time of sale. She indicated to him that the difference was combined into financing and upgraded condition of the property. He stated he did not feel an adjustment for sales concessions was merited on this transaction. The Respondent attached four lot sales from 2006 to support his site value opinion. The Respondent further indicated that there were 94 sales of single family residential homes in this area that sold from \$46,742 to \$53,751 and that 38 of those (40%) were not arm's length transactions. He also indicated that in 2008 there were 60 sales in this area ranging from \$29,693 to \$32,010 with 37 (62%) that were not arm's length transactions. He pointed out that the foreclosure sales in this market have increased substantially in the past 24 months. He concluded that he has no way to know the condition of the property at the time it was foreclosed upon, but that most foreclosure properties are in very bad condition.

Commissioner Carter found the following minor violations of USPAP: the sq. footage was not bracketed by the comparable sales; the MLS data indicated sale #2 has a 1 car detached carport which was not accounted for in the sales grid; and the MLS data indicated the list price of sale #2 was \$45,000 and the sales price was \$50,000 – however, Respondent did not explain this discrepancy within his report.

Although there were minor errors and discrepancies, overall, the appraisal under review was found by Commissioner Carter to be complete with the work material well documented. The data provided in the report was adequate and the methods and techniques used were appropriate to form an opinion of value. The analyses, opinions and conclusions of the Respondent were appropriate and reasonable and Commissioner Carter found no reason for disagreement with the final reconciliation.

The minor violations of SR 1-1(c) and 2-1(a) found in this report do not appear to be intentional or misleading and had no impact on the outcome of the valuation.

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Commissioner Carter recommends that the Respondent be issued, and the file be closed with a letter of caution (which is not discipline) to be more diligent toward the end of avoiding such errors in the future.

**Vote:** Mr. Flowers made the motion to accept the recommendation as written. Mr. Woodford seconded the motion. The motion carried unopposed.

**7. L09-APP-RBS-2009001501 No Reviewer was necessary**

The Complainant, a homeowner, employed and paid Respondent \$350 on November 13, 2008 to appraise complainant's residence. Respondent did not complete the assignment within a reasonable period of time and Complainant claims she called Respondent approximately 40 times requesting the report or a refund, until about January 26, 2009, when Complainant filed a disciplinary complaint with the administrative office. Respondent promptly sent the refund on or about February 1, 2009, and also reimbursed Complainant the amount of \$116 which Complainant expended in filing fees for a civil action filed against Respondent in General Sessions Court.

Complainant confirms she has received the refund, and Respondent did not address the Complainant's factual allegations in her response to the complaint.

**Prior Complaint/ Disciplinary History:** None

**Recommendation and reasoning:** Respondent's dilatoriness in not promptly completing the assignment, and taking over 2 and ½ months to make the refund when she realized she could not complete it, and making the refund only after receiving a copy of the disciplinary complaint which was filed at the end of January, 2009, is conduct which is inconsistent with the high level of public trust vested in appraisers by the Preamble to USPAP. Respondent has been apologetic, but counsel for the Commission and the Administrative Director recommend this file be closed with issuance of a letter of warning (non-discipline) to avoid such conduct in the future.

**Vote:** Mr. Flowers made the motion to accept the recommendation as written. Mr. Phillips seconded the motion. The motion carried unopposed.

**8. L09-APP-RBS-2009003861 No Reviewer was necessary**

Respondent's NC certified residential certificate was suspended via consent order by the NC Appraisers Board for a period of 12 months – 9 months stayed suspension (probation) and 3 months active suspension to serve. The basis for the imposition of discipline in NC was Respondent's preparation of 4 appraisal reports which were misleading. Respondent begins serving 40 days' suspension in NC on April 13, 2009 through May 24, 2009, and is reinstated until July 6, 2009, when the final 50 days of suspension runs through August 16, 2009. Respondent has a TN certificate but his physical practice is located in Boone, NC. Respondent indicates he has not and will not engage in any appraisals of Tennessee properties and will act as though he has been suspended in Tennessee for the same periods of time as he is suspended in NC. Respondent has requested that this Commission offer him as to his TN certification, the same consent order as was filed in NC.

**Prior Complaints/Disciplinary History:** None

**Recommendation and reasoning:** Counsel for the Commission and the Administrative Director recommend that the Respondent be sent the same type of order as was issued in NC, suspending his TN certificate for the same periods of time as he is suspended in NC, under our reciprocal discipline provisions. We would also include in this proposed order a requirement that Respondent execute same before a notary, attesting to the fact that he has not engaged in any real estate appraisal activity in Tennessee during any periods in which he has been suspended in NC. If this order is approved, for a certain portion of time, the suspension would be retroactive to the date the order is filed. This is legal and appropriate when agreed to, as long as Respondent has not acted as an appraiser in TN during any period of the suspension. If Respondent rejects this proposed consent order (which is doubtful), a formal proceeding should be commenced against his TN certificate seeking the same suspension as was ordered in NC.

**Vote:** Mr. Phillips made the motion to accept the recommendation as written. Mr. Flowers seconded the motion. The motion carried unopposed.

**9. L09-APP-RBS-2009004181 No Reviewer was necessary**

Respondent's NC certified residential certificate was suspended via consent order by the NC Appraisers Board for a period of 12 months – 9 months stayed suspension (probation) and 3 months active suspension to serve. The basis for the imposition of discipline in NC was Respondent's preparation of 6 appraisal reports which were misleading. Respondent began serving 42 days' suspension in NC on March 1, 2009 through April 12, 2009, and is reinstated until May 24, 2009, when the final 48 days of suspension runs through July 5, 2009. Respondent has a TN certificate but his physical practice is located in Boone, NC. Respondent indicates she has not and will not engage in any appraisals of Tennessee properties and will act as though she has been suspended in Tennessee for the same periods of time as he is suspended in NC. Respondent has requested that this Commission offer her as to her TN certification, the same consent order as was filed in NC.

**Prior Complaints/Disciplinary History:** None

**Recommendation and reasoning:** Counsel for the Commission and the Administrative Director recommend that the Respondent be sent the same type of order as was issued in NC, suspending her TN certificate for the same periods of time as she is suspended in NC, under our reciprocal discipline

provisions. We would also include in this proposed order a requirement that Respondent execute same before a notary, attesting to the fact that she has not engaged in any real estate appraisal activity in Tennessee during any periods in which he has been suspended in NC. If this order is approved, for a certain portion of time, the suspension would be retroactive to the date the order is filed. This is legal and appropriate when agreed to, as long as Respondent has not acted as an appraiser in TN during any period of the suspension. If Respondent rejects this proposed consent order (which is doubtful), a formal proceeding should be commenced against her TN certificate seeking the same suspension as was ordered in NC.

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

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**Proposal for Rules Change – Distance Qualifying Education**

Bud Hunsucker from Cengage submitted proposed language for a possible future Rules change to the Tennessee Real Estate Appraiser to allow distance qualifying education. This matter was presented to the Commission for discussion and possible further revision before any exposure drafts were sent out to the public for commentary. No final decision on this matter was to be ultimately reached, but this was just a presentation to begin the discussion about whether the present Rules that do not have a specific allowance for distance education for qualifying education. No distance or on-line education is currently approved for qualifying education by the Real Estate Appraiser Commission at this time. The Commission discussed with the Administrative Director the current provisions and the possible need to change the Rules. It was decided to discuss the pro's and con's of the matter in this and possibly future public meetings and to have Dr. Baryla submit an exposure draft that would be publicly available on the website and through a e-mail and possibly letters to licensees, course providers and the general public before any Rule Making Hearing on the matter.

The decline in educational offerings because of the AQB change to education requirements in 2008 was discussed, and emphasis was given to the fact that the courses to become a certified general real estate appraiser are only provided by one school at this time and are offered only very occasionally and it is often necessary to travel a great distance to take these courses. It was further discussed the burden of travel for some of the more rurally located real estate appraisers and that specialty courses were often difficult to obtain. It was also discussed that the States that surround Tennessee have allowances for qualifying education to be taken remotely and this may give out of State appraisers an advantage over local appraisers. Ms. Avers indicated that the number of appraisers overall has declined in the past year and especially the certified general real estate appraiser category. Discussion was opened as to whether for continuing education; the current requirement to take at least 14 hours in classroom should be also be considered for changes. A vote was called regarding this and it was indicated to Dr. Baryla that when the Rules were further revised the restriction on on-line continuing education should be removed. This was not a final change, only a vote for revision to the future exposure draft.

Bud Hucksucker of Cengage gave a presentation on the types of distance education, the strengths and weakness of the different types, and the benefits to students. He answered questions about distance education that the Commission members posed. A lot of discussion pertaining to the methods of proctored examinations was discussed. Who should be allowed to proctor examinations and how this would be monitored was discussed. It was determined the allowance in the proposed Rule change for exams to be proctored by "A public and private school professional (superintendent, principal, guidance

counselor, librarian, etc.” should be removed as these individuals would not seem to have any motivation to maintain the integrity of the real estate appraisal profession as would a real estate appraisal course provider that is already approved and monitored by the Real Estate Appraiser Commission or a college or university that already have exam proctoring guidelines in place. Dr. Baryla stated he would take the discussion of the Commission on these proposed changes and work together a second draft of these Rules for additional discussion at a future meeting.

The below draft of the Rules are just proposals and are not the final exposure drafts, nor has any Rule currently in place been changed as of the time of this meeting:

#### 1255-2-.04 COURSE GUIDELINES.

- (1) The following definitions are provided for the terms “qualifying education” and “continuing education”:
  - (a) Qualifying education means education that is creditable toward the education requirements for trainee registration, initial licensure or certification under one (1) or more of the three (3) real estate appraiser classifications (Licensed Real Estate)
  - (b) Continuing education means education that is creditable toward the education requirements that must be satisfied to renew registration as a trainee or licensure or certification as a Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser, and Certified General Real Estate Appraiser.
- (2) An applicant to be a course provider shall demonstrate to the satisfaction of the Commission that each course submitted for approval shall:
  - (a) cover subjects which are reasonably related to the practice of real estate appraisal and suitably advanced to benefit and enrich the students enrolled,
  - (b) be conducted in a facility that meets the requirements of the Americans with Disabilities Act and contains adequate space, seating, and equipment,
  - (c) consist of no fewer than two (2) classroom hours for continuing education and fifteen (15) hours with an examination for licensure/certification requirements, and
  - (d) incorporate appropriate methods for determining whether a student has successfully completed such course. Such methods shall include, but not be limited to:
    1. provisions to make up for classes or hours missed by a student, and
    2. for qualifying education and the fifteen (15) hour course in the Uniform Standards of Professional Appraisal Practice, a minimum passing requirement of seventy percent (70%) and a comprehensive final examination (or equivalent measure of achievement).
- (3) Internet Education/Distance Education for Qualifying Education
  - (b) Qualifying educational requirements may be satisfied through the completion of Board approved distance educational offerings.

\*Distance education is defined as an educational process in which instruction does not take place in a traditional classroom setting but rather through other media (Non-conventional methods) in which teacher and student are separated by distance and sometimes by time and the course provides interaction..
  - (b) Persons or entities seeking Board approval for a distance educational offering shall submit an outline and description of the entire course and provide documentation which demonstrates the course complies with the following criteria:
    - i. That the educational offering is presented by an approved or accredited college, community or junior college or university that offers distance educational programs and credit in other disciplines; or
    - ii. That approval of the course design and delivery mechanism has been obtained from an AQB Approval organization or an accredited college or university; and
    - iv. That the course teaches to the mastery of the subject and at a minimum covers the following criteria:

- A. Divides the material into major units as approved by the board;
  - B. Divides each of the major units of content into modules of instruction for delivery on a computer or other approved interactive audio or audio visual programs;
  - C. Divides the learning objectives for each module of instructions. The learning objectives must be comprehensive enough to insure that if all the objectives are met, the entire content of the course will be mastered;
  - D. Specify an objective, quantitative criterion for mastery used for each learning objective;
  - E. Provide a means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction;
  - F. Require the student to demonstrate mastery of all material covered by the learning objectives for the module before the module is completed;
  - G. That the course offering is designed in such a way that the material is presented under an approved instructor who shall be available to answer student questions or provide assistance on a timely basis as necessary;
  - H. The instructor will provide reasonable oversight of a student's work to ensure that the student who completes the work is the student who enrolled in the course;
- v. The course provider must provide documentation of an acceptable method that ensures that the student achieves the classroom hourly equivalent as approved by the Board. Any form of delivery that provides the student the opportunity to circumvent instructional design strategies that require them to read the material and spend the appropriate amount of time in the course will not be approved;
  - vi. The provider must submit satisfactory documentation that (1) the International Distance Education Certification Center (IDECC) or is an AQB approved certification entity has certified the course/seminar as meeting acceptable distance education standards for course design and delivery mechanism. Any approval based on such certification will cease upon notice that the certification has been discontinued for any reason.
  - vii. For distance education courses where an official cannot proctor classroom attendance, and an exam is required, such an examination shall be proctored by an individual approved pursuant to (e) and (f) below;
  - viii. And such other information as the Board may require.
  - ix. Students are to certify that they have personally completed each assigned module of instruction.

(e) Examination Proctors Qualifications

- i. The person shall not be related to the student by blood or marriage and may not be engaged in any association (personal or business) with the student.
- ii. The proctor may be selected from the following professions:
  - a. A university, college or community college professor or instructor.
  - b. A public and private school professional (superintendent, principal, guidance counselor, librarian, etc.)
  - c. An AQB certified instructor or an approved professional association's instructor.

(f). Examination Proctor Duties

- i. Be satisfied that the person taking the examination is the person registered for the course. This should be verified with a picture ID and another identification document (driver's license, student ID card, etc.).
- ii. Be in the room while the student is taking the exam or within line of sight of the student. Assure that the student does all the work him/herself without aids of any kind including books, notes, conversation with others or any other external resource. If the exam calls for mathematical calculations, a non-programmable hand-held calculator may be used.

iii. The proctor shall see that the student adheres to the time limit requirement specified for the examination. The examination must be completed in one sitting.

iv. Upon completion of the examination, the proctor shall submit a certificate indicating the verification of the identity of the student, that the examination was completed on the date assigned during the time permitted and that the student has done all the work him/herself without aids of any kind including books, notes, conversation with others or any other external resource while taking the examination, including access to Internet search engines or web pages other than that displaying the examination.

(g) Approval by the Board is initially granted for a period of two years provided no substantive changes in course content is made and approval may be extended for another two years on written request by the provider. Failure to timely request an extension will result in automatic termination of the educational offerings approval status.

(h) The Board may at its discretion adopt and implement various procedures for the auditing of any offerings that have been accepted for qualifying and continuing education approval by this agency.

#### (4) Internet Education/Distance Education for Continuing Education

(a) Courses given for continuing education via internet or distance education shall make up no more than fifty percent (50%) of the total requirement for continuing education each cycle and may be acceptable to meet the requirements of continuing education if:

1. The course provides interaction. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor,

2. Content approval is obtained from the AQB, a state licensing jurisdiction, or an accredited college, community college, or University that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. Non-academic credit college courses provided by a college shall be approved by the AQB or the state licensing jurisdiction, and

3. Course delivery mechanism approval is obtained from one of the following sources:

(i) AQB approved organizations providing approval of course design and delivery,

(ii) a college that qualifies for content approval in paragraph 2 above that awards academic credit for the distance education course, or

(iii) a qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.

(4) Each hour of course instruction shall consist of fifty (50) minutes of actual instruction for every sixty (60) minute segment.

(5) Attendance. For distance education seminars where classroom attendance cannot be proctored by an on-site official approved by the presenting entity, the provider shall have a method acceptable to the Commission for ensuring student achievement of the course hour equivalent.

(6) The courses listed in rules 1255-2-.05 and 1255-2-.06 are additions to those outlined in other sections and those lists of courses supplement those courses identified in other rules.

## About Cengage Learning and CompuTaught

Cengage Learning delivers highly customized learning solutions for colleges, universities, professors, students, libraries, government agencies, corporations and professionals around the world. Founded in Marietta, Georgia, in 1989, CompuTaught, part of Cengage Learning, was the first company in the country to offer state-approved real estate courses on computer, and continues to be the leading developer of computer-based real estate education. In addition to the new online initiative, the privately held educator

distributes its courses through more than 200 independent schools, with more than 50,000 enrollments per year. For more information visit: [www.computaught.com](http://www.computaught.com) or call +1 800.860.7479.

**Bud Hunsucker**

Vice President, [CompuTaught](http://CompuTaught) 1998-Present and part of the Career & Professional Group, [Cengage Learning](http://Cengage Learning)

Expertise: Executive management of the business development and marketing function in a high technology marketplace.

Detailed experience includes executive level management and strategic planning, operations management, market research, customer research, market-driven input to product design, market/product/business planning, positioning, competitive analysis, training and development, and design of research methodologies.

**Exeperience and Qualifications**

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Licensed Real Estate Agent  
Registered Appraiser  
Member of the [Industry Advisory Council](http://Industry Advisory Council) (IAC) for the [Appraisal Foundation](http://Appraisal Foundation).  
BS Florida State University  
MA Salve Regina College, International Affairs  
MA Naval War College, Strategic Studies

Project Management, Defense Systems Management College

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Being no further business, the meeting was adjourned at 11:55 a.m.

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Chairman, James E. Wade, Jr.

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Nikole Avers, Administrative Director