



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

August 11, 2008
Room 200, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met August 11, 2008, at 9:05 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in Room 200. 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
William R. Flowers, Jr.
Dr. Edward A. Barylak
Najanna Coleman
Thomas R. Carter

COMMISSION MEMBERS ABSENT

Jason West
Kenneth Woodford

STAFF MEMBERS PRESENT

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

ADOPT AGENDA

The Commission voted to adopt the agenda. Mr. Flowers made the motion to accept the agenda and it was seconded by Mr. Headden. The motion carried unopposed.

MINUTES

The July 2008 minutes were reviewed. Mr. Phillips made the motion to accept the minutes as written. It was seconded by Ms. Coleman. The motion carried unopposed.

GENERAL BUSINESS

Applicant Conferences

Benjamin Blake Davidson made application as an out of state applicant to become a certified general appraiser through reciprocity. Ms. Avers stated he has been disciplined in Kentucky in the form of a consent order which included a fine and additional education requirements. Mr. Davidson

was called to the guest microphone to speak to the Commission pertaining to this matter. Mr. Davidson stated, to the Commission, that in 1999 when he was a trainee he completed reports electronically and sent them to the supervisor for review. He stated that his supervisor had changed the values on an appraisal report without his knowledge or consent and raised the value on a property by some ten to fifteen thousand dollar on a manufactured home appraisal. The supervisor lost his license as a result. Mr. Davidson signed a consent order with the State of Kentucky which required him to pay a \$500 fine and complete a fifteen (15) hour course in Site Improvements. A Letter of Good Standing was provided from the State of Kentucky and since that occurrence, Mr. Davidson has upgraded to certified general in that state. After some discussion, Commissioner Flowers recommended approval of his application for certified general. Mr. Phillips seconded that recommendation. The matter was called for a vote and the motion carried unopposed.

Experience Interviews

Kimberly M. Maynard submitted a letter of request for reconsideration of previously required courses stemming from her July experience interview. She request approval to take "Residential Report Writing and Case Studies in lieu of the previously required "Two to Four Unit Case Study" course because the only provider of this course won't be offering this course for the remainder of the 2008 year. Mr. Headden expressed concerns that she lacked experience in the income approach and recommended instead that she complete the thirty (30) hour "Sales Comparison and Income Approach course. Mr. Flowers made a motion to accept the recommendation. Mr. Phillips seconded that motion. The motion carried unanimously.

Erica Rawls made application to upgrade from a registered trainee to certified general appraiser. Mr. Wade was the reviewer and stated she was very capable and he recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

David S. Landes made application to upgrade from a licensed appraiser to certified residential appraiser. Mr. Phillips was the reviewer and stated the experience was satisfactory to move from licensed appraiser to certified residential appraiser and he recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed.

Bryan D. Burger made application to upgrade from a registered trainee to become a licensed appraiser. Mr. Flowers was the reviewer and stated that Mr. Burger should complete the seven (7) hour Marshall and Swift course and then be granted approval of his experience. Mr. Headden made the motion to accept the recommendation and Dr. Baryla seconded the motion. The motion carried unopposed.

Katherine S. Fox made application to upgrade from a registered trainee to certified residential appraiser. Mr. Flowers was the reviewer and stated her reports were in very good shape and recommended approval of her experience. Mr. Headden 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 submitted for approval and recommended approval of the listed courses with the following amendments and notations. He recommended the course "112-Income Approach to Valuation II" submitted by IAAO only be granted 33 hours of qualifying education and 30 hours as continuing education, not 33.5 hours of qualifying education, because the state can't amend to half hours. He recommended that the course "Appraisal Curriculum overview - Residential" submitted by Appraisal Institute be granted only 7 hours of continuing education, not 8, due to an instructor review at the end of the course which is not consistent with continuing education requirements. He recommended approval of all other courses as requested. Mr. Phillips made the motion to accept Dr. Baryla's recommendation. Mr. Headden seconded that motion. The motion carried unopposed.

EDUCATION COMMITTEE REPORT

August 11, 2008

Course Name	Course Number	Course Name	Instructors	Hrs.	Type	Rec'd
International Association of Assess Officers	1217	112 – Income Approach to Valuation II	Larry Ellis	33.5 30	QE CE	To approve 33 QE 30 CE
Nat'l Assn of Independent Fee Appraisers	1218	Appraising Small Subdivisions	Lee F. Butzin	7	CE	To approve
Appraisal Institute	1219	On-line Appraisal of Nursing Facilities	James Tellatin	9	CE	To approve
Appraisal Institute	1221	Appraisal Curriculum Overview - General	Joseph Magdziarz Richard Parli	15	CE	To approve
Appraisal Institute	1220	Appraisal Curriculum Overview - Residential	Joseph Magdziarz Richard Parli	8	CE	To approve as 7 hrs CE
Appraisal Institute	1229	Commercial Appraisal Engagement & Review Seminar for Bankers & Appraisers	Nikki Griffith	7	CE	To approve

Appraisal Educators, Inc.	1222	106 USPAP Frequently Asked Questions 2008-2009	Robert Sneed	7	CE	To approve
Appraisal Educators, Inc.	1223	105A National USPAP Update Course	Robert Sneed	7	CE	To approve
Dennis Badger and Associates	1224	Minimizing Risk in Appraisal Practice	Dennis Badger Tom Veit	7	CE	To approve
TREES/TAPS	1226	Advanced Residential Case Studies	Ron Oslin Vicki Boyd Bill Wilson	15/14	QE/CE	To approve
TREES/TAPS	1227	Mortgage Fraud: A Dangerous Business	Ron Oslin Vicki Boyd Bill Wilson	7	CE	To approve
TREES/TAPS	1228	FHA & VA Appraiser: Thriving & Surviving	Ron Oslin Vicki Boyd Bill Wilson	7	CE	To approve
Van Education Center	1225	Residential Environmental Hazards Screening	Burton Lee	8	CE	To approve

LEGAL REPORT

William H. Thacker, Jr. (approved 7/08) -- signed Consent Order, has paid the \$3,000 civil penalty imposed, and is required to complete a 15 hour USPAP course and a 30 hour residential case studies course within 120 days after the effective date of this order, which will not be accepted as continuing education. Respondent admitted violations of Tenn. Code Ann. §§ 62-39-326(5) & 329, and SRs 1-5(a), 2-1(a) and (b) due to his actions in failing to provide reasoning or reconcile the subject's pending contract with his value conclusion (approx. \$10,000 more than contract sales price); in using 3 dissimilar modular homes as comparables to subject (a manufactured home) in one report; and by failing to report any difference in subject's value conclusion even after adding 2 additional manufactured comps (4 & 5) which indicated a much lower value opinion than the subject, after adjustment.

Michael Hooks, Jr. (approved 4/08) – signed Agreed Order of Revocation and agreed to pay investigative and hearing costs based on his April 9, 2008 conviction in US District Court of violating 18 USC § 666 (embezzlement – a felony offense) by obtaining by fraud approximately \$2,000 of funds of the Shelby County Juvenile Court. Respondent is a Registered Trainee and his felony conviction involved dishonesty and fraud. The Agreed Order was just signed the middle part of last week in that the case was previously set for formal hearing today. Respondent agreed that

his actions violated Tenn. Code Ann. § 62-39-326(3) & (4), USPAP's Ethics Rule, Conduct Section, and Tenn. Comp. R. & Reg. 1255-1-.12(4)(h).

1. L08-APP-RBS-2008007451 Commissioner Phillips was the Reviewer

Complainant alleged that Respondent underreported the sq. ft. of her home, and underreported the difference in sq. ft. between the subject and the comps; that 2 of the comps were "fixer-uppers" in poor condition; that comp 1 was a foreclosure sale; that Respondent did not report the fact that her home was in the process of being painted on the exterior, etc. Respondent's response reflected that he did note her home was in the process of being repainted on the "Repair and Maintenance" addendum; that his estimate of sq. ft. was within 16 sq. ft. of 2 other appraisal reports on the subject; that MLS sheets and his own exterior inspection reflected that the 2 other homes referred to as "fixer uppers" were really not in that condition; and that comp 1 was not a foreclosure sale per deed information, MLS comments, and interview with a listing agent.

Commissioner Phillips considers that 3 out of the 4 comps were within reasonable proximity to the subject, and that the difference in sq. ft. between subject and comps is less than Complainant indicated and are reasonable. Commissioner Phillips did note that Respondent erroneously stated that comp 1 closed on 9/2/07 while the recorded deed indicated that it closed 11/28/07. It was also noted that as to sale 4, Respondent erroneously reported 6 total rooms, 3 bedrooms and 1 bath; while the Assessor reported 7 total rooms, 3 bedrooms and 1 bath, and MAAR data indicated 7 total rooms, 4 bedrooms and 2 baths.

Prior Complaint / Disciplinary History: None

Recommendation and reasoning: Commissioner Phillips recommends that this file be closed with a letter of caution based on this Respondent's minor violations of SR 1-1(b).

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

2. L08-APP-RBS-2008008591 Commissioner Headden was the Reviewer

Respondent prepared an appraisal of 1320 Peabody Ave., Memphis, TN 38104 with an effective date of 10/13/06. According to Commissioner Headden the following deficiencies are noted:

- Respondent did not accurately indicate list prices and times when the subject was on the market from 3/05 – 2/06; and did not indicate or discuss how value should increase such that sales price went up from \$200,000 to \$385,000.
- Respondent did not clearly indicate neighborhood by stating only 90% 1 unit and 10% vacant, where Respondent provided no comments or discussion of multi-family, 2-4 family units, nor commercial properties. Respondent also indicated price range in neighborhood of between \$250,000 and \$500,000, but one wonders why subject listed and sold

below range but was valued at upper end of the range in the current report.

- Respondent failed to state source of definition of value.
- Property is or was a duplex (2 gas meters on photos), with a basement or cellar; yet Respondent failed to mention or address the subject as a duplex or the existence of the basement or cellar in his report.
- Respondent's cost estimates appear to be above Marshall & Swift's cost handbook with no explanation.
- Respondent failed to work the income approach at all in this report; if the property is duplex or light office, this approach might certainly be applicable.
- In the sales comparison approach, the comps were superior to the subject and Respondent did not adjust for swimming pools and guest house in comps 1 and 2; these comps were in superior condition to subject, but Respondent made no adjustments or those he made were not appropriate or supported.
- Respondent's report and the addendum were made on an "as is" basis, but the addendum falsely stated that \$32,000 in renovations/repairs had been made. However, in his written response to the complaint, Respondent states that his opinion of value (\$485,000) was contingent upon this list of repairs "being completed."
- There was also a discrepancy in the zoning information.

Prior Complaint / Disciplinary History: 200705063 (Closed with a Letter of Caution regarding description of the property and prior sales analysis)

Recommendation and reasoning: Commissioner Headden considers the Respondent to have violated USPAP's Ethics Rule, Conduct Section, and Scope of Work Rule, and SRs 1-1(a)(b)(c), and 2-1(a)(b)(c). Accordingly, it is Commissioner Headden's recommendation that respondent be offered a consent order wherein he will be assessed a civil penalty of \$3,500, and that he be required to take and pass a 30 hour residential case study course, a 15 hour USPAP course, and a 15 hour cost and site valuation course, all within 6 months after the effective date of the order. If Respondent rejects this proposal, a formal proceeding should be commenced.

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

3. L08-APP-RBS-2008010301 Commissioner Phillips was the Reviewer

This complaint involved the Respondent failing to include a certification page in four appraisals submitted to TREAC for experience audit. The Respondent was acting as the certified general supervising appraiser for commercial appraisal reports that were submitted by an applicant who is currently a certified residential appraiser.

The Respondent stated in his response letter that probably less than 1% of the appraisal reports he completes are other than single family. He also stated he recently switched software companies for

appraisal forms. He admits that the referenced appraisals did not include the USPAP required certification. He stated it was not his intent to deceive or be deficient in any manner and asked for leniency for his errors.

Prior Complaint/ Disciplinary History: 937501 (Cease and Desist Letter); 200003331 (consent order \$250, Sales Comparison course); 200315621 (Letter of Warning)

Recommendation and reasoning; As mentioned above, the Respondent failed to include a signed certification as required by Standard Rule 2-3. The reports submitted with the Complaint were lacking signed certifications.

Commissioner Phillips recommends the Respondent be required to attend a 15-hour USPAP course which would not be accepted as continuing education. In addition, the Respondent should be issued a consent order, offered the opportunity for an informal conference, and penalized \$500 for the omission of signed certifications in the four appraisals submitted to the Commission. If the Respondent rejects this proposal, a formal proceeding should be issued.

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

4. L08-APP-RBS-2008012941 Reviewer not necessary

Respondent's license was suspended in Georgia on 5/21/08 for allowing his license to lapse after an investigation was commenced and prior to the filing of a notice of charges in Georgia. A notice of charges was filed against Respondent in Alabama on 2/28/08 for failing to respond to the Alabama Board's request for a copy of his workfile and appraisal involved in a pending Alabama complaint, and for failing to keep the Alabama Board apprised of his current mailing address. A default order was entered in June of this year in Alabama revoking Respondent's license and we are awaiting a certified copy of the final order.

Prior Complaint / Disciplinary History: 200316913 (Dismissed); 200708845 (Open – formal proceeding authorized after Respondent did not respond to consent order offered him)

Recommendation and reasoning: Staff and Counsel for the Commission recommend that this file be incorporated into the formal proceeding already authorized as to case no. 200708845, to seek revocation of Respondent's Tennessee license.

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

5. L08-APP-RBS-2008014921 Reviewer not necessary

Respondent's former supervisor terminated her and filed a complaint against her on 7/7/08 due to her actions in fraudulently affixing his electronic signature to, and mailing an appraisal report to the client between 6/30 and 7/3/08, while the supervisor was on a short vacation beginning 7/1. Respondent (a Registered Trainee) and the supervisor inspected the property on 6/26, and apparently Respondent received an inquiry from the bank between 7/1 – 7/3 as to the status of the report. The supervisor never had the ability to review or

approve the report, and only learned about this fraud after checking his mailbox after returning from vacation on Sunday evening, 7/6/08, and finding in his box a check from the client for this report. Respondent has admitted this misconduct, and has apologized to the Commission, and wishes her registration to be terminated in that she does not wish to pursue a career in the appraisal business.

Prior Complaint / Disciplinary History: 200706229 (Dismissed); 200707019 (Closed with consent order – regarding using supervisor’s signature)

Recommendation and reasoning: Based on Respondent’s prior discipline for engaging in the same type of misconduct last year, Administrative Staff and counsel for the Commission recommend that Respondent be offered a consent order of revocation, and if she rejects it, that formal proceedings be commenced.

Vote: Mr. Phillips made the motion to accept the recommendation. Dr. Baryla seconded the motion. Mr. Headden recused from vote. The motion carried unopposed.

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Being no further business, the meeting was adjourned at 9:40 a.m.

Nikole Avers, Administrative Director

Chairman, James E. Wade, Jr.