



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

September 14, 2009
Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met September 14, 2009, at 9:12 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairman, Herbert Phillips, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

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

COMMISSION MEMBERS ABSENT

Najanna Coleman
Dr. Edward A. Baryla
Erik Sanford

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. Flowers. The motion carried unopposed.

MINUTES

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

GENERAL BUSINESS

Experience Interviews

Constantin Ceausu made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Wade was the reviewer and he recommended approval of his experience. Mr. Headden made the motion to accept the recommendation and Mr. Carter seconded the motion. The motion carried unopposed.

Rebecca Williamson made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Wade was the reviewer and he recommended approval of her experience. Mr. Headden made the motion to accept the recommendation and Mr. Carter seconded the motion. The motion carried unopposed.

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

Thomas David Johnson made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and he recommended approval of his experience. Mr. Wade made the motion to accept the recommendation and Mr. Carter seconded the motion. The motion carried unopposed.

Edward Browning, Jr. made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Flowers was the reviewer and he recommended approval of his experience. Mr. Wade made the motion to accept the recommendation and Mr. Carter seconded the motion. The motion carried unopposed.

Elaine D. Marcum made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Carter was the reviewer and recommended approval of her experience. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

Jeffrey C. Hand made application to upgrade from a registered trainee to become a certified residential real estate appraiser. Mr. Woodford was the reviewer and he recommended approval of his experience. Mr. Wade made the motion to accept the recommendation and Mr. Carter seconded the motion. The motion carried unopposed.

Michelle D. Sanders 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. Woodford seconded the motion. The motion carried unopposed.

Marques D. Morris made application to upgrade from a licensed real estate appraiser to become a certified residential real estate appraiser. Mr. Phillips and Mr. Headden were the reviewers and they recommended the applicant send in 4 more appraisal reports for experience consideration. They requested that two of these reports be selected by the Administrative Director from the experience log, and two reports to be submitted by the applicant which were to be completed after this experience interview. 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 via e-mail to Ms. Avers, the Administrative Director, to present to the Real Estate Appraiser Commission. Mr. Wade made the motion to accept the recommendation as written. Mr. Flowers seconded the motion. The motion carried unopposed.

September Education Committee Report

Course Provider	Course #	Course Name	Instructors	Hrs.	Type	Rec. from Dr. Baryla
ASFMRA	1321	ASFMRA 80 th Annual Convention	Brian Hauss; Al Bennett; Paul Bierschwale; Jeff Berg; Leonard Meador; Donald Fisher; Fred Jaynes; Clayton Caver; Virgil Holtgrewe; Dr. Ernie Goss; Terry Argotsinger; Justin Bierschwale; Courtney Gaudet; Matt Marschall; Jerry Hatfield; Doug Hodge; Cal Goding; Richard Brock; Steve Bodart; Joseph Vella	Req. 12 4 shown	CE	"Rapid Fire Case Studies" timed outline they submitted show 210 minutes without any break. Divided by 50 would be 4 hours-if someone stays for the entire presentation. Insufficient information on other sessions to determine Approval for 4 hours
ASFMRA	1322	Cost Approach Applications	Mark Lewis	8	CE	Approval
ALLTERA GROUP	1325	2009 Keynote/ Valuation Visionaries	Jacqueline Doty, Sue Pottieger, Pete Gillispie, Gerry Kifer, Mark Johnson, George Opelka, Bill Rayburn, Chuck Mureddu,	7	CE	Approval
ALLTERA GROUP	1326	2009 Regulatory Updates/Re-Engineering the Appraisal Process	Jim Park, Larry Disney, Don Kelly, Lewis Allen, Kelly Davids, Rachel Dollar, Rick Langdon, Guillermo Gower, David Hundreiser	7	CE	Approval
JUST VALUATION, INC.	1324	On-Line Introduction to HUD REO Appraisals	Robert McKenna, Ron Nation	12	CE	Approval for 11 + 1 for passing the exam.
THE SPEARMAN CENTER	1323	The Appraisal Capstone Course	William Lewis Spearman	14	CE	Approval
US Dept of Housing & Urban Development	1327	On-Line FHA Basics for Appraisers	Jan Marquardt, George Hibbert, Linda Middleton, Malcolm Jefferson	4	CE	Approval
Greater TN Chapter of the AI	1328	Appraising Convenience Stores	Vincent M. Dowling	7	CE	Approval
APPRAISAL INSTITUTE	1329	On-Line Appraisal Curriculum Overview – Residential	Mark Ratterman	8	CE	Approval
APPRAISAL INSTITUTE	1336	On-Line Site Use and Valuation Analysis	Arlen Mills	6	CE	Approval

Individual Course Approval

Name	License #	Provider	Course Name	Hrs	Type	Recommendation from Dr. Baryla
Eric Boozer	CG 389	CCIM Institute	Valuation of Commercial leasehold and sub-leasehold interest, Review basic valuation concepts	32	CE	Approval
Steven Goodpaster	4342	University of Florida	Community Revitalization & Conservation	36	QE	against
Steven Goodpaster	4342	University of Florida	Housing Economics and Policy	42	QE	against
Steven Goodpaster	4342	University of Florida	Primary Mortgage Markets & Institutions	28	QE	against
Steven Goodpaster	4342	University of Florida	Professional Communication	30	QE	against
Steven Goodpaster	4342	University of Florida	Principles of RE Decision Making	30	QE	against
Steven Goodpaster	4342	University of Florida	Investments Property Analysis	40	QE	Approval in income approach module 30 hours
Steven Goodpaster	4342	University of Florida	Project Planning & Feasibility	58	QE	against
Steven Goodpaster	4342	University of Florida	Taking Charge of the Construction Process	48	QE	against
Steven Goodpaster	4342	University of Florida	Commercial Real Estate Appraisal	32	QE	Approval in income approach module 30 hours
Steven Goodpaster	4342	University of Florida	Market Analysis & Transactions	32	QE	Approval as elective 30 hours
Steven Goodpaster	4342	University of Florida	RE Financial Analyst Training & Case Studies	9	QE	against
Steven Goodpaster	4342	University of Florida	Advanced Managerial Statistics	28	QE	Approval as 15 hrs stat modeling combined with below
Steven Goodpaster	4342	University of Florida	Introduction to Managerial Statistics	26	QE	Approval as 15 hours combined with above
O S Riley Jr.	CG 243	Wilson Educational Group	7 Hour National USPAP Update Course	7	CE	Approval

LEGAL REPORT

Advisory Opinion 62-39-104

Legal Counsel, Jesse Joseph, presented a draft of a letter addressed to the Attorney General requesting an advisory opinion on the current statute which had been revised from discussion held during the previous Commission meeting. Mr. Wade made a motion to act on that recommendation. Mr. Woodford seconded that motion. The motion carried unopposed.

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

Jacquelyn Stooksbury (approved 7/09) – signed Consent Order wherein she admitted in a residential appraisal that she made very large and inappropriate positive adjustments, misrepresented the price range of 2 of her comparables, provided no support for here site value and did not properly derive the amount of depreciation, and failed to prominently state on the cover sheet of this report which of the three options she used to prepare the report. Respondent's certified residential certificate is restricted per this order in that she must take and complete a 40 or 50 hour residential report writing course within 6 months after the effective date of this order, or her certificate will be immediately suspended with no further procedural steps until she fulfills this requirement.

Dana Glenn Andrews (approved 6/09) – signed Consent Order wherein he admitted he was in violation of the Ethics Rule, Confidentiality Section requirements by having significant communications with a third party about his restricted use report without having a waiver from his client, by not providing an opinion of exposure time linked to the value opinion, by not sufficiently identifying the effect on use and value of existing land use regulations, by not providing a reasonable analysis of the comparable sales comparison data to provide a credible assignment result, amongst other violations. Respondent's certified general certificate is Restricted per this order in that he must take and pass within six (6) months (or 180 days) after the effective date of this order: (i) a 30 general appraiser sales comparison approach course, and (ii) a 30 hour general appraiser site valuation and cost approach course, or his certificate will be immediately suspended with no further procedural steps until he fulfills this requirement.

Robert T. Helms, Sr. (approved 6/09) – signed Consent Order agreeing to a 6 month (180 day)suspension in an assignment where he submitted two different reports (same effective date) to a client with 2 different value opinions, with two radically different site value opinions (\$10,000 vs. \$21,000) with no support and two different sets of adjustments for quality and condition to comparable properties of the same address (with no support). Respondent also failed to develop a cost approach in the first report for this 1 year old subject, and in the second report failed to use Marshall & Swift's cost and local multipliers. Respondent displayed considerable incompetency in these reports. Respondent is required to complete the following courses before the end of the 180 day suspension period: (i) 15 hour USPAP; (ii) Basic Appraisal Procedures; (iii) Residential Report Writing; and (iv) and Residential Site Valuation and Cost Approach, or he will remain suspended until he complies with these requirements.

William E. Sams (approved 6/09) – signed Consent Order and paid \$5,000 civil penalty for indicating a value opinion of \$422,000 in a 11/18/08 exterior-only appraisal, where a prior 10/28/08 appraisal by another appraiser indicated a value opinion of \$335,000. Respondent did not obtain contract information on the subject nor state the efforts he took to attempt to obtain the contract; he misreported ownership information of the subject; he appeared to have cloned the neighborhood and the market conditions sections of this report; he did not indicate what the source was for his reported size of the subject; he did not properly support the effective age opinions as to the subject or the comparable sales; and did not properly apply adjustments for the lakefront properties chosen as comparables, amongst several other violations. Respondent is required to complete the following educational courses with a passing grade within five (5) months (or 150 days) after the effective date of this order: (i) a 15 hour USPAP course; (ii) a 30 hour Basic Appraisal Procedures course; and (iii) a 15 hour Residential Report Writing & Case Studies course, or he will be immediately suspended until he complies with these requirements.

Monica Corley (approved 6/09) – signed order of permanent voluntary surrender of her certified residential certificate without the ability to ever re-apply for any license, certificate or for trainee status due to her attempts to perpetrate a fraud on the Commission during an April – October, 2008 probationary period in which she was required to have another appraiser sign and approve all of her reports, by contacting a Jackson-area appraiser in April of 2009 (who had no knowledge of these reports at the time they were prepared) and asking him to retroactively sign these 84 reports in order to send them to the Director, after the Director had asked Respondent to demonstrate compliance with the March 2008 consent order which placed her on probation.

1. L08-APP-RBS-2008006971 Commissioner Flowers was the Reviewer

A prior consent order was approved in late 2008 for voluntary surrender of Respondent's license, based on his conduct in developing nearly 200 appraisals in a cabin resort for a client in East Tennessee between 2000 and 2001. Commissioner Flowers requested, and staff and counsel obtained, a CD containing all of these original appraisals from Respondent's counsel in December of last year. After the disk was provided, and a large random sampling (approximately 40) of these appraisals were reviewed, Commissioner Flowers was of the opinion that the Respondent used 9 sets of photos of the subject properties' front, rear, and street scenes for nearly 40 lots (e.g., he would use an identical set of photos for 3-6 different lots), and that Respondent's signed certifications to each of these approximately 40 appraisals was false, in that he did not make a personal inspection of each lot on which the proposed house or chalet was to be constructed. Commissioner Flowers was of the opinion that a review of all 200 of these appraisals would reflect a continuation of this same pattern of presenting misleading appraisals. Respondent also admitted in a sworn statement before the OCC that he did not verify assumptions which he made (such as not verifying the existence of running water or functioning sewer or septic systems in these cabins (before he signed his completion certificates.

Respondent claimed within an informal conference that at the time he attempted to inspect individual lots that he could not gain access to the specific locations for said lots since streets had not been added and individual lots had not been cleared or graded. He has stated that he did not intend to engage in fraudulent conduct, but acknowledges that he did not state within these reports any hypothetical conditions regarding his lack of access, and the lack of clearing and grading of lots. Respondent also admitted that he should not have relied solely on the promises of his client's on-site loan officer that the water would be running shortly.

Respondent's actions in this regard were grossly negligent and highly misleading to his client, to third party readers of his reports, and to his peers.

Prior Complaint/Disciplinary History: None

Recommendation and reasoning: Commissioner Flowers, the Administrative Director and counsel for the State have agreed, based on the remorse expressed by Respondent, his acknowledgement of these serious violations, his lack of a prior disciplinary history, and his explanation, that the public can be protected and the Respondent adequately disciplined by reducing the sanction to a Consent Order (already signed by Respondent) imposing an 18 month suspension with 6 months to serve and the balance of 12 months stayed on probation, and payment of a \$5,000 civil penalty. ½ or \$2,500 of this penalty is to be paid (and has been paid) on his execution of this order and he is to pay the balance before the end of the 6 month actual suspension period. Respondent is also required to complete a 7 hour

course on Subdivisions and a 15 hour USPAP course within the 6 month actual suspension period. If these requirements are not met by the end of the 6 month period, the suspension will continue until these conditions are met. As to probation, Respondent is required to submit to the Administrative Director an experience log 3 months after being reinstated to active practice, and once every quarter, from which the Administrative Director has the ability to choose appraisals to review.

We recommend this revised Consent Order to the full Commission for approval.

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

2. L09-APP-RBS-2008025171 Commissioner Phillips was the Reviewer

A prior consent order was approved by the Commission in June of this year for a 60 day suspension and a \$5,000 civil penalty based on Respondent's conduct in developing a residential appraisal in Shelby County. In this matter, Respondent prepared three separate appraisal reports of the subject (signed 1/21/08, 2/22/08, and 2/23/08), all with the same effective date. The first and second appraisals contained a value opinion of \$106,000, and the third report valued the subject at \$97,000. Respondent's effective age for the subject was 13 years in the first 2 reports, but was changed to 18 years on the third report; in the second report, Respondent added a 4th comparable, 1 mile away, and in the third report, he added 5th and 6th comparables with adjusted values of between \$81,000 and \$88,500 without reconciling them as to why these sales would have such a lower value indication. Respondent also indicated a value by the cost approach of \$106,888 in the first two reports but dropped this cost approach value to \$97,000 in the third report. There were other violations committed by Respondent which led Commissioner Phillips, the Director and counsel to believe that Respondent had allowed the client to influence his reports and that he has favored a predetermined value opinion, possibly supplied by the client.

Although the complaint initially showed indications that the Respondent may have favored the cause of the client by changing the value indications in three appraisal reports, in holding the informal conference with the Respondent, the reviewing Commission Member, the Administrative Director, and Legal Counsel concurred that the failure on the part of this Respondent was in developing and supporting the appraised value and insecurity on his part when questioned about his report by the underwriter to the loan. For this reason, the disciplinary action recommended changed from allegations of probable Ethics violations, to those involving matters where Competency issues are apparent.

Prior Complaint / Disciplinary History: None

Recommendation and reasoning: After considering the Respondent's explanations at the conference (without necessarily acquiescing in them), the apparent lack of intentional misleading conduct or fraud, his lack of a prior disciplinary history, and after considering the Respondent's current financial situation as presented to counsel for the State, Commissioner Phillips, the Director and counsel recommend to the Commission a revised Consent Order (signed by Respondent) imposing a \$3,000 civil penalty (\$500 due on execution of order – already paid), and the \$2,500 balance by the end of a 6 month period, and requiring Respondent to complete the following educational courses with a passing grade: (i) a 15 hour USPAP course; (ii) a 30 hour Sales and Income Approach course; and (iii) a 15 hour Site Value and Cost Approach course. If he fails to meet these requirements within 6 months, he will be immediately suspended until he complies with these requirements.

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

3. L09-APP-RBS-2009005841 Danny K. Wiley was the Reviewer

This complaint was submitted by a lender pertaining to two (2) appraisals completed by the Respondent. In the first appraisal, the Respondent was alleged to have over-valued a residential property by indicating a value opinion of \$475,000 on January 27, 2007. The Complainant submitted a field review appraisal that indicated a value opinion of \$400,000 with the same effective date on that review report as evidence. Further the Respondent was alleged to have misreported basement information of the comparable sales and possibly omitted seller concessions from the comparable sale information in the sales comparison approach.

In the second appraisal, the Respondent was alleged to have over-valued a residential property by indicating a value opinion of \$105,000 on September 27, 2004. The Complainant submitted a field review appraisal that indicated a value opinion of \$90,000 with the same effective date as evidence. Further the Respondent was alleged to have misreported the subject's location by reporting it to be on a corner lot, misreported the zoning, and misreported the room counts for comparable sale three. The Respondent was alleged to have inflated the site value and cost figures in the cost approach. Additionally, the Respondent was alleged to have failed to summarize the support for adjustments applied in the sales comparison approach (time of sale), or those omitted (site size, bedroom, bathroom). Finally, the Respondent was alleged to have used superior quality, age, design, and condition properties as comparable sales without adequate reconciliation or adjustments.

The Respondent was sent a letter on March 27, 2009 requesting response to the Complainant's allegations. This request was sent by certified mail and also e-mailed the same date. The Respondent received the certified mail and signed for receipt on April 3, 2009. No response was received as of May 22, 2009.

A written response was received on June 1, 2009, wherein Respondent stated that he has not been conducting real estate appraisals on a fee basis since late 2006 or early 2007, that he has never purposely over-valued a property, and in response to both allegations he performed these two appraisal assignments to the best of his ability at the time of the assignment and did not purposely mislead or leave anything out.

Mr. Wiley's overall conclusions as to the 2004 appraisal were: the selection and weighting of the comparable sales, as well as the adjustments applied to the sales strongly indicate a specific attempt to reach the estimated value on the order form rather than developing an unbiased, independent opinion of value.

His specific findings as to violations are as follows:

NEIGHBORHOOD There was conflicting information in this section of the report; prices are said to be increasing by Respondent, which is not consistent with the indication that supply and demand are in balance and marketing times are 3 to 6 months. The report indicates that land use is 100% one family. Census data for the area shows a variety of uses. This is also supported by analysis of satellite imagery of the area. Images from Google Earth show multi-family dwellings, commercial structures, etc. [SR 1-2(e)(i), SR 2-1(a)]

COMPARISON APPROACH

Sale 1 The subject's condition is reported as average. No significant updates are noted in the property description. The MLS listing for sale 1 indicates that it has been "completely updated," including new windows, vinyl siding and an updated kitchen. No condition adjustment was applied by Respondent. A new sun room was recently added to the home. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Sale 3 The site is much larger, but no site adjustment was applied. The MLS listing indicates significant updating to this home (new bath fixtures, cabinetry, updated flooring). No condition adjustment was applied. The listing indicates a detached workshop that is not included in the adjustment grid. [SR 1-1(b), SR 1-4(a), SR 2-1(a)] Market Condition Adjustments - A market condition adjustment was applied to sale 3, which was almost one year old as of the effective date of the appraisal. However, no adjustments were applied to sales 1 and 2 which were 2.5 months old and 6 months old, respectively. [SR 1-1(a), SR 1-1(b), SR 1-4(a), SR 2-1(a)]

RECONCILIATION/FINAL VALUE

Two of the comparables adjust to \$88,570 and \$87,908. The third sale indicates a value of \$106,117, and the final value conclusion is \$105,000. The sale that indicates a value of \$106,117 is least similar to the subject. It has a much larger site. It is least similar in size. It has three bedrooms and two baths, and it has a two car garage. It does not appear that this sale has been properly weighted in the reconciliation process. [SR 1-6] The order form indicates an estimated value of \$105,000. The selection and weighting of the sales, as well as the adjustments applied to the sales strongly indicate a specific attempt to reach the estimated value on the order form rather than developing an unbiased, independent opinion of value.

[ETHICS RULE]

INCOME APPROACH The income approach was not completed, and it does not appear necessary for credible results in the assignment. However, omission of the approach must be explained in the report. [SR 2-2(b)(xi)]

Mr. Wiley's overall conclusions as to the 2007 appraisal were: The report was prepared for the owner, but the report was communicated on a form designed for lenders. As a result, there are several inaccurate statements in the report. There are several errors in the comparison approach. The pattern of these errors gives the appearance that the value was intentionally inflated.

His specific findings as to violations are as follows:

REPORT FORMAT The client for the appraisal was the owner. However, the report was communicated on a form designed for lender use. As a result, there are inaccurate statements in the report (intended use, intended user, etc.). [SR 2-1(a), SR 2-2(b)]

NEIGHBORHOOD There is conflicting information in this section of the report. Prices are said to be increasing. This is not consistent with the indication that supply and demand are in balance and marketing times are 3 to 6 months. It is also not consistent with the lack of market condition adjustments in the comparison approach. [SR 1-2(e)(i), SR 2-1(a)]

COMPARISON APPROACH

Upgrades to Sale 1 The property used as sale 1, was listed for sale with an asking price of \$499,900. The sale price was \$596,284. The reviewer contacted the listing agent who stated that the large difference

between the list price and sale price was due to significant additions and upgrades to the home. This included the addition of a swimming pool, fencing and significant landscaping work on the exterior of the home. A second driveway was added, and there were significant interior upgrades as well. It appears that the details of the sale were not properly verified by Respondent because the additions were not reported in the adjustment grid, e.g. the pool is not reported in the adjustment grid.[SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Condition Adjustments Condition adjustments of +\$15,000 were made to sales 2 and 3, indicating that their condition was inferior to the subject. Sale 2 is one year newer than the subject. Sale 3 was a new home that had never been occupied. The Respondent's report does not explain how the condition of a brand new home can be inferior to the condition of a home that is two years old. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Energy Efficient Items The Respondent's description of the subject includes information about energy efficient items. Sale 1 is reported to have comparable items. Sales 2 and 3 are reported to be inferior and adjustments of +\$15,000 was applied. The report states that the data sources used for the comparables were MLS and Public Records. Neither of these sources have the kind of information that would be required as the basis for these adjustments (and lack of adjustment to sale 1). It appears that either: (a) applicable data sources were not reported, or (b) Respondent made adjustments without adequate information. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

Basement Area Sale 1 has unfinished basement that was adjusted at \$20 per square foot. The same rate was used for the finished basement area in sale 3. [SR 1-1(b), SR 1-4(a), SR 2-1(a)]

COMPARISON APPROACH (CONTINUED) The issues noted above - (1) Failure to verify the correct data for sale 1; (2) Unexplained condition adjustments to sales 2 and 3; and (3) Unsupported adjustments for energy efficient items, all tend to support a higher value conclusion. Hence, there is the appearance that the value opinion was intentionally inflated. [ETHICS RULE]

INCOME APPROACH The income approach was not completed, and it does not appear necessary for credible results in the assignment. However, omission of the approach must be explained in the report. [SR 2-2(b)(viii)]

Prior Complaint / Disciplinary History: 199901392 (Closed), 200101138 (Dismissed), and 200500444 (Letter of Caution)

Recommendation and reasoning: The Administrative Director and counsel for the State recommend, based on the above reviews, that a consent order be offered to Respondent imposing a six (6) month suspension of his certificate, and that Respondent be offered the ability for an informal conference if he desires such.

Vote: Mr. Phillips proposed adding a \$1,000 civil penalty, a 15 hour USPAP course, and a 15 hour Residential Report Writing and Case Studies course. Mr. Woodford made the motion to accept this revised recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

4. L09-APP-RBS-2009005651 Danny Wiley was the Reviewer

The Complainant alleged that the subject residential property was under-valued due to the utilization of inappropriate comparables.

Mr. Wiley's overall conclusions and specific findings are as follows:

CONCLUSIONS: The allegation that the subject property has been under valued due to the use of inappropriate comparable sales does not appear to have merit. Overall, the report provides credible support for the assignment results.

ISSUES NOTED: The report states that no contract was provided, but does not state the steps taken to obtain the contract. [SR 2-2(b)(viii)] • Prior transfers of the subject and the comparable sales were not reported and analyzed. [SR 1-5(a) & Scope of Work Rule, Problem Identification Section]

COMPARISON APPROACH: The properties used as comparables appear to be similar and suitable for use in developing a value opinion for the subject property. All three comparables transferred in the year prior to the sale reported in the adjustment grid. These transfers were not reported or analyzed by Respondent. [SCOPE OF WORK RULE, Problem Identification Section]

SUBJECT SALES HISTORY: The report does not include analysis of all transfers of the subject property that occurred in the three years prior to the effective date of the appraisal. [SR 1-5(b), SR 2-2(b)(viii)]

Prior Complaint/Disciplinary History: None

Recommendation and reasoning: The Administrative Director and counsel for the State recommend that this file be closed with a letter of warning due to minor violations of failing to report the steps Respondent took to obtain a copy of the sales contract, failing to report and analyze prior transfers of the comparable sales, and failing to present an analysis of the sales history of the subject property as is required by SRs 1-5 (b) and 2-2 (b)(viii), and the Scope of Work Rule, Problem Identification Section.

Vote: Mr. Carter made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

5. L09-APP-RBS-2009009361 Danny Wiley was the Reviewer

This complaint was filed by a consumer and included allegations that the Respondent undervalued a residential property by indicating a value opinion of \$235,000 on April 24, 2009. The complainant stated the property was under purchase agreement for \$255,900 at that time. She alleged the Respondent used inappropriate comparable sales.

The Respondent stated in her response letter that the subject has a scenic view from the front of the lot; however, there is very little useable space to the rear of the lot because of a dangerous drop off. She said it was such a hazard that the appraisal was subject to a rail being installed in this area. She included land sales to support her site value opinion. She stated that she reported and properly adjusted for quality and improvement differences.

Mr. Wiley's overall conclusions and specific findings are as follows:

CONCLUSIONS: The complaint alleges that the home was undervalued as the result of using inappropriate comparable sales. This allegation does not appear to have merit. Some issues were noted, but in the reviewer's opinion they are minor.

NEIGHBORHOOD There is some conflicting information in this section of the report. The report states that the area is 25% to 75% built up, but the description of land use indicates 85% built-up. Prices are said to be declining, but no market condition adjustments were applied in the comparison approach. [SR 2-1(a)]

SITE DESCRIPTION The SITE section contains the comment that, "No adverse site conditions were observed upon the date of inspection." This statement appears to be "boilerplate" that is used in multiple reports. It contradicts an email dated 6/12/2009 in which the Respondent wrote, "...The front yard had a 7 foot drop off...I considered this so dangerous that I made it a condition to place a railing in this area." The statement made in the SITE section of the report appears to be an oversight. It is the reviewer's opinion that comments in other sections of the report adequately communicate the site issue to the intended user.

PROPERTY DESCRIPTION Some information in this section of the report appears contradictory. The subject is a new home, but the condition of all items is reported to be average. The fact that the subject is a new home is clearly communicated in multiple sections, so the description of the condition as average may not be accurate, but it should not mislead the intended user.

COMPARISON APPROACH The top of page 2 of the URAR indicates that there have been 3 comparable sales in the subject neighborhood in the past year. The 1004 MC form indicates that there have been 26 comparable sales in the subject neighborhood in the past year. [SR 2-1(a)] The sales included in the comparison approach appear to be well suited for deriving a credible value opinion. The data presented is consistent with the supporting data provided by the Respondent and data that the reviewer researched independently. The report indicates that data for sale 3 was obtained from the MLS. No MLS listing was provided by the Respondent. In an email dated 6/12/2009 the Respondent stated that the data for this home was obtained from "software files." It is common for appraisers to use data obtained from previous assignments. The reviewer was able to verify the sale price and date from CRS. Indicating MLS as a data source for this sale appears to simply be an error. [SR 2-1(a)]

REPORT DATE The appraisal report sent with the complaint indicates that it was signed on 04/24/2009. The appraisal report provided by the Respondent indicates that it was signed on 06/02/2009. The reviewer compared the two reports and found other small differences. The license numbers indicated on the 1004MC form are different. The report submitted with the complaint has the Respondent's TN CR number, while the copy sent by the Respondent indicates a GA license number. There is no way to determine exactly why the reports have small differences. One possible explanation is that the appraiser retained an unsigned copy in the workfile and applied a signature later when asked to produce a copy for TREAC. [ETHICS RULE, Record Keeping section]

Prior Complaint / Disciplinary History: None

Recommendation: Administrative Staff and counsel would recommend closing this complaint matter with a letter of warning, or alternatively, that the Commission decide on an appropriate consent order disposition if the violations are deemed to warrant such, based on the above failure to comply with USPAP as noted by the reviewer.

Vote: Mr. Headden made the motion that a consent order be offered to Respondent which should include a 30 hour Basic Appraisal Principles course to be completed within six months of execution of the consent order to be consistent with disciplinary action taken in similar complaint matters. Mr. Flowers seconded the motion. The motion carried unopposed.

6. L09-APP-RBS-2009003811 Danny Wiley was the Reviewer

Respondent allegedly failed to meet competency requirements of USPAP in a partial acquisition appraisal and failed to meet requirements of the Community Development Board Grant (CDBG) Handbook by inappropriately using the combined 0.47 acre size of the fee acquisition and the permanent easement as the "larger parcel". Additionally, by failing to use the larger 13.5 acre size of the property which is the larger parcel, failing to provide a before and after opinion of value, failing to address possible damages to the remainder from the construction of the water storage facility, failing to use appropriate comparable sales to represent the subject property.

The Respondent stated in his response letter that he is a licensed real estate appraiser and that it is general knowledge in his hometown. He stated he was hired by the city utilities department to appraise a small tract of property that the city needed to buy to build a new water tank. He stated he told the client if it was just an appraisal for purchase he could do it, but if it was for condemnation, he could not. He stated in a preliminary letter he was informed that the "Uniform Acquisition and Relocation Policies Act" applied. He further added that when he was contracted to complete this appraisal assignment he learned that this project was a "Community Development Block Grant" and everything needed to be handled properly because federal money was involved. He stated that at no time was a "Community Development Block Grant Handbook" mentioned to him and he was not given an engagement letter. He stated that Article 4 Section (h) (5) states "if the part or interest to be taken is such a small part of the whole property that the damages for the taking can be more accurately estimated directly, that method may be used if permitted under State Law, without estimating the fair market value of the entire property of the owner." He stated he researched comparables and concluded that the difference in the value before and the value after was negligible; therefore, he decided to estimate the value of the subject directly. He stated that he included in several places in the report the intended use, "to derive the fair market value of the site and easements to aid the intended user in determining an offering price to purchase the subject property." He also identified the intended user as the (City). He stated that neither the Scope of Work nor the Intended Use stated in the report makes mention of a partial acquisition appraisal for a CDBG.

The Respondent's license has expired on 2/10/09 and was expired for a several months before the response was submitted to the complaint – he cannot late-renew his license and cannot presently practice as an appraiser.

Mr. Wiley's overall conclusions and specific findings are as follows:

CONCLUSIONS: It appears that the appraiser lacked the knowledge and experience to complete the assignment competently. The standard of value used was not appropriate for the intended use. The methodology used is inappropriate for the appraisal problem.

SCOPE OF WORK/PROBLEM IDENTIFICATION The appraisal problem was not properly identified. The intended use was to assist the city in evaluating fair compensation for acquisition of land for a water storage unit. The assignment was subject to the requirement of the Community Development Block Grant Handbook. In a letter to the TREAC, the appraiser stated that, "At no time was a Community Development

Block Grant Handbook (CDBG) mentioned.” However, a letter from the Utilities Manager of the municipality to the Respondent, states that, “This project is being funded by the Tennessee Department of Economic and Community Development...” An appraiser competent to complete the assignment would know that the CDBG Handbook would apply to such an assignment. [COMPETENCY RULE, SCOPE OF WORK RULE]

Notes in the workfile indicate that that the appraiser conducted research in the proper way to complete the assignment. This indicates that the appraiser was unaware of the proper way to complete the assignment at the time it was accepted. In such cases the appraisal report must document the lack of knowledge and/or experience as well as the steps taken to acquire the required competency. The report contains no such documentation. [COMPETENCY RULE]

REPORTING FORMAT The report was completed using a pre-printed form. The adjustment grid presented is not appropriate for the assignment. [SR 2-2(b)]

STANDARD OF VALUE The report indicates that the value provided is Market Value. A definition of Market Value information in this section of the report is consistent with data found by the reviewer. The proper standard of value for the assignment, however, is Fair Market Value as defined in the CDBG Handbook. [SCOPE OF WORK RULE, SR 1-2(c)]

IDENTIFICATION OF SUBJECT PROPERTY It appears that the appraiser did not fully understand the nature of the subject property for the assignment. The purpose of obtaining an appraisal in this case is to measure the effect that the acquisition of the water tower site and the related easement would have on the larger tract. The primary aim is not to appraise the portion taken from the site as Respondent thought; rather, it is to measure the effect that the taking has on the remainder of the site.[SCOPE OF WORK RULE, SR 1-1(a)]

SITE DESCRIPTION The report describes the portion of the site that is to be obtained. However, the focus of the assignment should be on the effect that acquiring a portion of the site has on the remainder of the site. Hence, the site description is not appropriate. [SCOPE OF WORK RULE, SR 1-1(a), SR 1-1(b), SR 2-1(a)]

EXTRAORDINARY ASSUMPTIONS Within the report there is discussion regarding installation of an underground water line. The report states, “This report will assume that installing the line will be possible.” This is an extraordinary assumption. The report does not meet the disclosure requirements related to use of an extraordinary assumption. [SR 2-2(b)(x)]

COMPARISON APPROACH It appears that the appraiser was not aware of the recognized methods that should have been used in the assignment. The development of the unit value should be done using comparable sales similar to the larger tract rather than sales comparable to the smaller tract that was being acquired. Also, no consideration was given to the effect of the taking on the remainder of the larger tract. [COMPETENCY RULE, SCOPE OF WORK RULE, SR 1-1(a), SR 1-1(b), SR 1-4(a)]

Prior Complaint / Disciplinary History: None

Recommendation and reasoning: Even though the findings of violations are severe, and cast serious doubt on the Respondent’s competence to perform this type of assignment, Administrative Director and

counsel would recommend that this complaint be closed and flagged, for reopening and possible future action in case the Respondent ever applies for a new license or certificate, or for trainee status, based on the detailed review of Mr. Wiley.

Note: Mr. Headden made the motion to accept the recommendation and Mr. Flowers seconded the motion. The motion carried unopposed. Mr. Wade recused from vote on this matter because he had prior knowledge of the facts of this complaint.

7. & 8. L09-APP-RBS-2009001221 & 2009002611

Commissioner Woodford and Danny Wiley were Reviewers

The first complaint (2009001221) reviewed by Commissioner Woodford was filed by a mortgage lender and alleges that the property was overvalued. The Complainant submitted a second appraisal with effective value date of 7/10/2008 and report date of 9/22/2008. The appraisal prepared by the Respondent valued the property at \$181,000. The second appraisal valued the property at \$136,400.

Commissioner Woodford makes reference to the Complaint package which includes the appraisal, second appraisal, the Complaint and administrative observations from reading the reports.

Commissioner Woodford's observations and conclusions are as follows:

Conclusion as to appropriateness of appraisal as regards to USPAP:

Standards Rule 1-4(a)

This standard requires that when a sale comparison approach is necessary for credible assignment results an appraiser must analyze such comparable sales data as are available to indicate a value conclusion. The Respondent is considered to have violated this standard inasmuch as there were sales in the area that were considered more in line with this property as to quality, etc. than the sales utilized. The sales utilized appear to be of considerably better quality and although the appraiser made some negative adjustment, the adjustment is not considered adequate and in conformance to the other sales in the area.

Standards Rule 2-1(a)

This standard requires that the appraisal report clearly and accurately set forth the appraisal in a manner that will not be misleading. The use of sales that are considered of a better quality and appeal with less than adequate negative adjustments is considered misleading.

Mr. Wiley's overall conclusions and specific findings as to the second complaint (2009002611) are as follows:

CONCLUSIONS: The complaint alleges that the appraisal was not "fair and accurate" because the appraiser did not properly account for the size of the home. It appears that the various finished areas in the home were handled properly in the appraisal report. The complaint alleges that the sales used were inappropriate. It appears to the reviewer that the sales used were among the best sales available as of the effective date. The neighborhood section of the report is not accurate. Assistance in preparation of the report is not properly documented.

IDENTIFICATION OF SUBJECT PROPERTY The property appears to have been adequately identified. The report states that the home is in a certain neighborhood. It is not. The report does not note that the subject is in a PUD with an HOA, a swimming pool and other shared amenities. All of the comparable sales used in the appraisal are also located in PUDs. Hence, any effect of the PUD location would be accounted for. Therefore, this is not a significant omission.

NEIGHBORHOOD It appears that the report was created by "cloning" an existing report for a home in a different neighborhood. There are several errors in this section of the report. 1. The neighborhood is said to be southeast of downtown Nashville. It is actually southwest of downtown Nashville; 2. The price range and age range do not accurately reflect the price range and age range within the neighborhood boundaries reported; 3. The reporting of land use percentages includes only one unit dwellings and vacant land. There are commercial buildings, apartments, retails stores, duplexes, etc. within the reported neighborhood boundaries; and 4. At the time of the appraisal there was a significant over supply of available housing in the subject's area, and median prices were falling. In general, the information provided in this section is inaccurate. [SR 1-2(e)(i), SR 2-1(a), SR 2-2b(iii)]

DESCRIPTION OF IMPROVEMENTS The complaint alleges that the sun room area and basement area were not handled properly. However, it appears that these areas were handled in accordance with recognized appraisal methods. Neither was included in the above grade gross living area. The complaint includes a copy of a previous appraisal report. The complaint states that the sun room and basement area were handled correctly in the previous report. In that previous report the sun room and finished basement were handled the same way they were in the Respondent's report. Neither was included in the above grade gross living area.

COMPARISON APPROACH It appears that the sales used were among the best available as of the appraisal date. The complaint alleges that: (1) the sales were not appropriate, and that better sales were available, and (2) the use of listings was inappropriate. Neither of these allegations appears to have merit. The reviewer reviewed the sales data submitted with the complaint and found that the sales used in the appraisal report were superior. Not only is the use of listing data appropriate, it has become mandatory in many assignments.

ASSISTANCE IN REPORT PREPARATION An addendum to the report states that a certain individual assisted with the preparation of the appraisal report. Those who provide significant assistance must be named in the certification. The nature of the assistance must be reported somewhere in the report. The reviewer did not find this in the report being reviewed. [SR 2-2(b)(vii), SR 2-3]

Prior Complaint / Disciplinary History: 200105196 (Dismissed); 200316654 (Dismissed)

Recommendation and reasoning: Administrative Director, Counsel and Commissioner Woodford agree wholeheartedly that the Respondent' use of very superior comparables from a standpoint of quality is misleading and that Respondent should be disciplined. Counsel and Administrative Director agree that Respondent should be offered (with the ability for an informal conference) a consent order of a \$2,000 civil penalty, imposing 6 months of probation where Respondent will not be eligible for upgrade of his LI designation during said probation, completion of a 15 hours Residential Writing course with passage of the exam, and a requirement that Respondent submit 1 appraisal report prepared (with workfile contents) during the probationary period which should demonstrate USPAP proficiency. If that submitted report reflects possible USPAP violations, then a new complaint seeking enhanced discipline will be opened.

Staff and counsel will defer to the judgment of Commissioner Woodford relative to the components of this consent order. If Respondent does not agree to such a consent order, a formal proceeding should be commenced.

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

9. L09-APP-RBS-2009000521 Commissioner Carter was the Reviewer

The Complainant complains that the property was over-valued, that property values were declining in the neighborhood, the site value was not supported, deferred maintenance was not recognized, car storage was not properly adjusted for, and several other things.

Respondent prepared 3 appraisals for the subject, the first 2 had the same effective date and the 3rd was performed at a later date – the reasoning for there being 3 reports was adequately explained by the Respondent.

Commissioner Carter also considered an Exterior-only 2055 appraisal report prepared by another appraiser submitted by the Complainant which was given limited weight given its limited inspection of the subject.

Commissioner Carter performed a section-by-section analysis of the Respondent's report and although minor errors were found, the appraisal was found to be complete and the work material well documented. The data was adequate to form an opinion of value, and the Respondent's analysis, opinions, and conclusions were appropriate and reasonable. The minor errors found were not intentional or misleading and had no impact on the outcome of the valuation.

Prior Complaint / Disciplinary History: 200210798 (Dismissed); 200707941 (Closed – Letter of Warning); 200800361 (Consent Order -\$500 & 15 hour USPAP course)

Recommendation and reasoning: Commissioner Carter, the Director and counsel recommend that this complaint be dismissed.

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

Applicant Conferences

- **Rebecca Williamson (formerly Rebecca Snyder)** submitted an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Williamson had signed a consent order to accept disciplinary action while she was a trainee because she conducted a property inspection in an appraisal assignment without supervision and before completion of her first 500 hours of experience. After reviewing the content of the consent order, Mr. Wade made motion to approve the application. Mr. Carter seconded that motion. The Commission voted unanimously to approve this applicant's request to upgrade to certified residential real estate appraiser.
- **Sean Warren Hollis** submitted an application for reciprocity to gain a certified residential real estate appraiser credential based on his Alabama credential. Ms. Avers indicated that the

application did not disclose on the character page that he had been disciplined and further that the Letter of Good Standing from Alabama had the consent order removed from the document, though the letter noted, "Disciplinary Action: Yes X; see attached documents X". The discipline was discovered by the Administrative Director when the National Registry maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examinations Counsel. The consent order included six appraisals with 45 noted Standards violations and a \$4,500 civil penalty. When questioned about this Mr. Hollis alleged that this occurred because of a Mr. James Smith (trainee) that worked for him and made these errors. Mr. Hollis added that he had completed all the requirements of the consent order. Ms. Avers reported that James Smith was not noted as a Respondent in the consent order signed by Mr. Hollis. Commissioner Wade made a motion to deny the application. Mr. Flowers seconded that motion. Motion carried unanimously to deny.

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At 10:30 Ms. Avers recommended recessing the Commission meeting so that a formal hearing that was scheduled could begin on time. The meeting was recessed until 4:10.

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. Flowers seconded that motion and the motion passed. Ms. Avers stated she would add this to the agenda of the next Commission meeting, if possible.

Being no further business, the meeting was adjourned at 4:15 a.m.

Chairman, Herbert E. Phillips

Nikole Avers, Administrative Director