



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY, SUITE 620
NASHVILLE, TENNESSEE 37243
615-741-1831**

**April 21, 2008
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met April 21, 2008, at 9:15 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman, William R. Flowers, Jr., called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

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

COMMISSION MEMBERS ABSENT

Jason West
John Bullington

STAFF MEMBERS PRESENT

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

ADOPT AGENDA

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

MINUTES

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

GENERAL BUSINESS

Applicant Conference – PSI Response Letter

On December 29, 2007 there was an altercation at the PSI testing center in Nashville between Sydney Hedrick and the exam proctor. Mr. Hedrick was removed from the approved candidate for the exam list as a result. Mr. Hedrick was asked by administrative staff to attend the March meeting to address this matter with the Commission members. It was determined during the

March meeting that more information was needed from PSI, therefore a response letter was requested by staff prior to setting up any meeting for PSI representatives to attend. Ms. Avers read the response letter submitted by PSI into the record.

From Tadas Dabsys of PSI:

"Here are some details concerning the altercation at our Nashville test center December 29, 2007 involving Sydney Hedrick. (I had previously sent you a copy of the police report that our proctor, Robert Wilson, had filed with the police.)"

Due to some miscommunication, our two proctors did not realize that there was a session for the morning of December 29. It was a simple scheduling error. The proctors have a very good attendance record in Nashville. Due to the fact that this particular test date was in between major holidays, it took some time to find the proctors and to get them to the test center. Unfortunately, we had to cancel the morning session. The particular testing deadlines for appraisers certainly complicated matters even more. We have some flexibility in putting candidates into test seats once some candidates finish early. Inasmuch as were trying to accommodate everyone, Mr. Hedrick's attitude and subsequent physical attack on our proctor prevented us from testing him.

In the morning session, there were 4 Appraiser candidates that were scheduled to test (1 of whom was Sydney Hedrick). 2 tested:

CYNTHIA TRUITT TN Certified Residential Appraiser

JILL MARIE HUNT TN Certified Residential Appraiser

2 did not test:

SCOTT PAYNE TN Certified Residential Appraiser

SYDNEY BERRY HEDRICK TN Certified Residential Appraiser

Regarding Sydney Hedrick, this is the Incident Report section form that day, as submitted by the victim, Robert Wilson: Candidate was scheduled for morning session and returned to site in the afternoon. He was informed by the proctor that he could wait until the afternoon session was signed in to see if there were any no-shows resulting in available seats; otherwise, he could contact PSI via the 800 number to reschedule. At some point in the conversation, I referred to this morning's cancellation as an "administrative error." Candidate demanded to know what this meant, and he was informed that he could take it up with PSI via the 800 number. Candidate became livid and demanded to know the meaning of "administrative error." His conduct demanded that I ask him to vacate the premises, at which point he threatened me physically. He then proceeded to throw me on the floor as I went to open the door for him. I picked up the phone to dial 911, and he attempted to remove it from my hand. He had left the premises by the time law enforcement had arrived. All other candidates (including the 2 from this morning that were rescheduled) were signed in without issue. It is possible that examinees already in the testing room were distracted by the commotion in the office. My fellow proctor Lindsey witnessed the entire incident and was threatened as well. I will most likely press assault charges, and I feel very strongly that this individual should not be permitted on the premises in the future. Feel free to contact me regarding this matter. Thank you.

I know that I had updated you verbally after the incident occurred. I neglected to submit a written report.

Let me know if you need anything else.

*Regards,
Tadas*

After some discussion about letter, Mr. Headden recommended that we get someone from PSI in attendance for the June meeting. Mr. Flowers stated he felt we needed someone on the record pertaining to this matter, so that if there are changes in leadership in either the Commission members or staff, that there is a record of how the present Commission felt this matter should be resolved. Mr. Wade made a motion that either a letter be obtained from PSI stating they will allow Mr. Hedrick to take the exam when he applies or a representative from PSI should be present at the June meeting to address the matter of the altercation. Mr. Phillips seconded that motion. The motion carried unopposed.

Experience Interviews

Colleen D. Wallace made application to upgrade from a licensed appraiser to certified residential appraiser. Mr. Phillips was the reviewer and he recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

Robert Clayton Parker made application to upgrade from a registered trainee to licensed appraiser. Mr. Phillips was the reviewer and he recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Curtis D. Hance made application to upgrade from a licensed appraiser to certified residential appraiser. Mr. Headden was the reviewer and he recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Barbara Jean Shaver made application to upgrade from a registered trainee to become a certified residential appraiser. Mr. Headden was the reviewer and felt the applicant would benefit from a thirty (30) hour Residential Case Study course. He recommended that once the course was successfully completed, that approval be granted. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

James Ray Plante, made application to upgrade from certified residential to certified general appraiser in December of 2007. Mr. Headden and Mr. Bullington were the reviewers at that time and recommended to hold application in pending status until completion of, at least, two additional reports to be reviewed of multi-tenant commercial properties. They stated they would like to see all three approaches to value used in these reports. In addition, they have recommended a fifteen hour narrative report writing course with exam. They stated no second experience interview would be required at this time. Mr. Plante wrote Commission staff on March 23, 2008 requesting an amendment to this previously approved recommendation. He requested that in lieu of one of the appraisal reports, he take three courses: General Market Analysis and Highest and Best Use, General Appraiser Income Approach (part 1), General Appraiser Income Approach (part 2). He stated in his letter he would then complete one demonstration report for the Commission using

what he had learned in those courses. Mr. Headden indicated that he would recommend this request be granted. Mr. Woodford made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Creighton R. Cross made application to upgrade from a registered trainee to certified general appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

Jason Blankenship attended a five hundred (500) hour experience interview. Mr. Wade was the reviewer and provided guidance requested by this trainee.

Clayton W. Haehl made application to upgrade from a registered trainee to certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

David Hendrickson made application to upgrade from a registered trainee to certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Phillips made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Brian B. Livesay, made application as an out of state applicant to become a licensed appraiser. Mr. Woodford was the reviewer and stated that inconsistencies were noted in the appraisal reports. He recommended the applicant complete a thirty (30) hour Residential Case Study course, and, if taken previous, to take the course from a different course provider. He stated after the course is completed, the applicant should submit and updated experience log and three reports should be selected. He stated he would recommend a second required experience interview. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

James H. Everhart made application to upgrade from a registered trainee to certified residential appraiser. Mr. Woodford was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Education Committee Report

Dr. Barylka began the Education Report by expressing appreciation for all the work that Administrative Staff provides in assisting in the preparation for course approval. He began with the course approval request of Alterra Consulting Group, LLC, for their Appraisal Fraud Conference. He recommended retroactive approval of this course with an effective date of April 18, 2008. He recommended approval for all of the Appraisal Institute and Continual Learning Institute courses. He recommended approval for the M.A. E. Real Estate Education course, Developing & Reporting a Defensible 1004 Form Report. He recommended that the matter of the Columbia Institute course, On-line Residential Report Writing and Case Studies, be deferred until the Commission can address limitations on amount of Qualifying Education trainees may take and proctor approval. Lastly, he recommended approval for all of the individual course approval's requested by Mr. Lon

Kaprive and Colleen Dawn Wallace. Mr. Headden made the motion to accept Dr. Baryla's recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

EDUCATION COMMITTEE REPORT
April 21, 2008

Course Name	Course Number	Course Name	Instructors	Hrs.	Type
Allterra Consulting Group LLC	1178 (Requesting retroactive approval)	Appraisal Fraud Conference	Larry Disney, Ralph Burnham, Rick Davis, Jeff Bradford, Nick Tillema	7	CE
Appraisal Institute	1176	On-Line Real Estate Appraisal Operations	Sandra K. Adomatis	4	CE-Online
Appraisal Institute	1177	On-Line GIS: The Building Case Study	Christopher Miner	14	CE-Online
Appraisal Institute	1187	On-line Reviewing Residential Appraisals and using Fannie Mae Form 2000	Mark Ratterman	7	CE-Online
Appraisal Institute	1188	Residential Design: The making of a Good House	Dawn Molitor-Gennrich	7	CE
Appraisal Institute	1189	Appraisal Review Seminar-General	Patrick Murphy	7	CE
Appraisal Institute	1190	On-Line Forecasting Revenue	William Ted Anglyn	7	CE-Online
Continual Learning Institute	1180	Basic Appraisal Principles	Michael Deal, Clint Long, Paul Perutelli	32	Both
Continual Learning Institute	1181	Basic Appraisal Procedures	Michael Deal, Clint Long, Paul Perutelli	32	Both
Continual Learning Institute	1183	Residential Market Analysis and Highest and Best Use	Michael Deal, Clint Long, Paul Perutelli	16	Both

Continual Learning Institute	1184	Residential Report Writing and Case Studies	Michael Deal, Clint Long, Paul Perutelli	16	Both
Continual Learning Institute	1185	Residential Site Valuation and Cost Approach	Michael Deal, Clint Long, Paul Perutelli	16.5	Both
Continual Learning Institute	1186	Statistics, Modeling, and Finance	Michael Deal, Clint Long, Paul Perutelli	16	Both
M.A.E. Real Estate Education	1179	Developing & Reporting a Defensible 1004 Form Report (AP202)	John Ohlin	8	CE
The Columbia Institute	1175	On-line Residential Report Writing and Case Studies #929	George R. Harrison and Robert Hetrick	15	QE-Online

Individual Course Approval

Name	License #	Course Provider	Course Name	Hrs	Type
Lon Kaprive	1041	International Association of Assessing Officers	Course 600-Principles and Techniques of Cadastral Mapping	33	CE
Colleen Dawn Wallace	4075 (Already Licensed appraiser requesting to upgrade to Certified Residential)	Henderson Professional Development Seminars	Residential Appraisal Concepts II	30	QE
Colleen Dawn Wallace	4075	Henderson Professional Development Seminars	Residential Appraisal Concepts III	30	QE

Colleen Dawn Wallace	4075	Henderson Professional Development Seminars	Uniform Appraisal Standards	15	QE
Colleen Dawn Wallace	4075	Henderson Professional Development Seminars	Real Estate Data Analysis I	15	QE

Request for amendment of Policy # 7 and addition of Policy # 8

Ms. Avers presented a possible amendment to Commission Policy 7 due to proposed changes to the Appraisal Subcommittee Policy Statement 10g. Commission Policy 7 currently reads:

7. An applicant's experience requirement begins the date the person was registered as a trainee or licensed/certified. The minimum total monthly experience requirement shall end no sooner than twenty-four (24) months from that date for applicants for licensed appraiser or certified residential appraiser and thirty (30) months for applicants for certified general appraiser. Completion of this requirement will be reviewed based on the time the applicant was registered, licensed or certified.

Proposed (in response to ASC changes to Policy Statement 10g):

When measuring the beginning and ending of the experience period under AQB criteria (currently 24 months for licensed and certified residential and 30 months for certified general), TREAC will review each appraiser's experience log and note the dates of the first and last acceptable appraisal activities performed by the applicant. Then, TREAC will calculate the time period spanned between those appraisal activities.

Mr. Wade recommended approval of the propose changes to Commission Policy 7. Mr. Phillips seconded that motion. The motion carried unopposed.

Ms. Avers stated that there have been some issues pertaining to credentialed applicants from other states that move to Tennessee. As the policy currently reads, if applicants move to Tennessee prior to applying, they would have to complete the education, experience and examination process the same as would a trainee applicant. She stated that this seem excessively burdensome given that in the previous months the Commission had created policy to accept guide note 5 by the Appraisal Foundation as the interpretation for AQB compliant credentialed appraisers. She proposed two possible drafts for Policy 8.

Proposed language for Policy # 8

Out of State applicants, from non-reciprocal states, which are current credential holders and in good standing within their jurisdictions, may obtain reciprocal credentials, temporary practice

permits, renewals of existing credentials, and an equivalent credential in Tennessee on or after January 1, 2008 without having to meet the 2008 AQB criteria. If an appraiser holds a valid appraiser credential supported by an AQB approved examination, the appraiser will be deemed to be in full compliance with the 2008 criteria. Evidence of AQB compliance must be verified either through the National Registry, maintained by the Appraisal Subcommittee of Congress, or by a "Letter of Good Standing" from the credentialing jurisdiction. **(Per Guide Note 5, vote 2-11-08)**

Or

Applicants which are current credential holders in good standing within another jurisdiction may obtain reciprocal credentials, temporary practice permits, renewals of existing credentials, and an equivalent credential in Tennessee on or after January 1, 2008 without having to meet the 2008 AQB criteria. If an appraiser holds a valid appraiser credential supported by an AQB approved examination, the appraiser will be deemed to be in full compliance with the 2008 criteria. Evidence of AQB compliance must be verified either through the National Registry, maintained by the Appraisal Subcommittee of Congress, or by a "Letter of Good Standing" from the credentialing jurisdiction. **(Per Guide Note 5)**

Mr. Phillips made a motion to adopt the second version of Commission Policy 8. Mr. Wade seconded that motion. The motion carried unopposed.

LEGAL REPORT

Monica Corley (approved 1/08) - signed Consent Order agreeing that she violated USPAP Standard Rules 1-1(a), 1-2(e), 1-3(a)&(b), 1-4(a)&(b), 2-1(a)&(b), 2-2(b) and Tenn. Code Ann § 62-39-329 by failing to have the experience and knowledge necessary in the appraising of a historic home/bed and breakfast before engaging in the assignment, by failing to correctly employ the sales comparison and cost approaches to produce credible appraisal results in the appraisal of a historic home/bed and breakfast, and also in the appraisal of a single family residence. Respondent agreed to pay a \$ 3,000 civil penalty immediately upon execution of this consent order, and to complete a thirty (30) hour report writing course within 3 months of the execution of this consent order.

Frederick Hooks (approved 12/07) – signed Consent Order agreeing that he violated USPAP Standard Rules 1-2(c), 1-4(g), 1-5(a), and 2-2(b)(iii), by not disclosing and analyzing the seller's concessions, by not analyzing the effect on the value of the personal property, and by including the appliances in the description of the property. Respondent agreed to pay a \$ 1,000 civil penalty immediately upon execution of this consent order and to take a 15 hour USPAP course with a passing exam score, to be completed within 3 months of the execution of the consent order.

Kristopher G. Clifton (approved 3/08) – signed Consent Order agreeing that he violated USPAP Standard Rules 1-1(b), 1-2(e)(i), 1-3(a), 1-4(a), 1-5(b), 1-6(a)&(b), 2-2(b)(iii),(viii)&(ix) and the Ethics Rule, Conduct Section, and Tenn. Code Ann. §§ 62-39-32695) and 62-39-329, by misrepresenting the legal description of the subject property with an incorrect lot number and map reference, by inaccurately reporting the subject's zoning class and description, by failing to adequately or accurately describe the subject's improvements, and by failing to perform this assignment competently overall Respondent agreed to pay a \$ 1,000 civil penalty immediately

upon execution of this consent order and to take and complete a 15 hour USPAP course with a passing exam score, within 3 months after the execution of this consent order.

1. L06-APP-RBS-2006030181; L06-APP-RBS-2006041541; LO7-APP-RBS-2007068691; and LO7-APP-RBS-2007071241 Mr. Bullington is the Reviewer

The captioned four (4) complaints are currently pending against the Respondent, and are currently incorporated within a Notice of Hearing and Charges which was filed last October and which is set for hearing at the May 12, 2008 Commission meeting. These complaints involve the revocation of Respondent's licenses in two other states in 2003 and 2004, and his preparation of 12 appraisals in Tennessee between 2004 and 2007 where he had, amongst other things, overvalued subject properties, failed to properly report distances between comparables to subject properties, failed to use comparables of similar style and quality to subject properties, failed to make proper adjustments for comparables which had superior characteristics, failed to analyze prior sales of subject properties and of comparables in writing within his reports, and failed to report the intended use of his appraisal reports.

Counsel for the Commission took Respondent's deposition on April 16, 2008, and after the deposition, Respondent agreed to accept and has signed, a permanent voluntary surrender of his Tennessee certified residential real estate appraiser certification, with no right to re-apply for licensure or certification with the Commission. Respondent has also requested that the permanent voluntary surrender of his certification not be effective until July 31, 2008 – the date of the expiration of his current certification – in order to give him a bit more time to wind down his affairs and close his practice.

Prior Complaint / Disciplinary History: No other prior complaints than those listed above.

Recommendation and reasoning: Staff and counsel to the Commission have approved this proposed disposition and would recommend that the Commission approve same. The formal proceeding which is pending is very voluminous, and also time and labor intensive. Even if this matter resulted in a final order revoking Respondent's certification filed in late May of this year, the Respondent, through counsel, has indicated he will request a stay of effectiveness of the final order before the Commission, then file an appeal of the final order in Chancery Court and then another request for stay before the Chancery Court. It is likely that even if this matter were fully tried before the Commission and an appeal were filed with the Chancery Court, there would be no resolution of the question involving the stay before the Chancery Court prior to July 31, 2008. The Chancery Court could look favorably on and grant the request for a stay of effectiveness (if the Respondent posts a bond) until the case could be decided on its merits in Chancery Court – which could take another year beyond July of 2008.

This permanent voluntary surrender without the right to re-apply grants the same type of relief as a permanent revocation without the right to re-apply would. Respondent would simply be given approximately 2 and ½ months after the May meeting to wind down his affairs and close his practice.

Vote: Mr. Wade made a motion to accept legal counsel's recommendation. Mr. Woodford seconded the motion. The motion carried unopposed.

2. L08-APP-RBS-2008003311

This complaint was filed anonymously in reference to news stories about this Respondent having pled guilty in November of last year to federal embezzlement charges as part of the Tennessee Waltz sting. The Respondent (a Registered Trainee) was sent the complaint on February 4, 2008. The receipt of the certified card was marked February 7, 2008. No response has been received from the Respondent as of this date. Respondent was actually convicted of embezzling \$ 2,000 from the Shelby County Juvenile Court in violation of 18 U.S.C. §§2 and 666 on April 9, 2008, when he was sentenced in federal court to 30 days in prison, 4 months of home confinement and 2 years of supervised release. This is a felony conviction.

Tenn. Code Ann. §§ 62-39-308 and 62-39-326(3) authorize the Commission to discipline or penalize any certificate or registration holder, or licensee for conduct which is violative of the statutory scheme and for convictions of felony offenses.

Prior Complaint / Disciplinary History: None

Recommendation and reasoning: Staff and counsel for the Commission recommend that the Respondent be offered a consent order of permanent voluntary surrender of his registration as trainee, and if not accepted by Respondent within 30 days, that a formal proceeding (notice of hearing and charges) be authorized.

Vote: Mr. Headden made a motion to accept legal counsel's recommendation. Mr. Phillips seconded the motion. The motion carried unopposed.

3. & 4. L08-APP-RBS-2008003611 & L08-APP-RBS-200803612 Two Respondents. Mr. Phillips is the Reviewer.

The Complainant, an outside agency, stated that loan losses were incurred by the bank on a foreclosed property that had previously been appraised by the Respondents. The Complainant had a review of the original appraisal conducted and the conclusions were that:

1. The report failed to analyze all agreements of sale, option or listings as of the appraisal effective date. The appraisal failed to report the asking price, the seller paid closing costs, listing history or a description of how the current transaction occurred. Per Complainant, the seller had agreed to pay 6% of the buyer's closing costs, however, the appraisal failed to report these concessions or to analyze their impact on the value conclusion.
2. The subject's 36-month transfer/sales history was not reconciled with the value conclusion. Per Complainant, the subject sold for \$10,000 on 8/30/2004 (which was reported in the appraisal), however, it was not reconciled with the 9/17/2004 value conclusion of \$60,000. The appraisal only noted that the subject had been "remodeled with new carpet, freshly painted interior", but did not reconcile this appreciation rate.

3. The subject site influences were not reported or analyzed. The appraisal reported "no external depreciation", however, maps indicated that the subject fronts diagonally to a large commercial structure and attached parking lot.

The Respondents stated in their response letter that they attempted to retrieve the purchase agreement, but the lender did not provide the agreement. They stated that this was reported in the appraisal report. They further stated the list price and the sale price were the same. The 6% closing cost concession offered by the seller was typical for this market with no adverse or favorable impact on the value conclusion. They stated there was no MLS listing for this property because the seller already had a buyer (FSBO). They stated the prior sale was reported in the appraisal. The Respondents also stated that the remodeled condition justified an appreciation rate typical for those rehabbed homes within that market. They stated the comparables used were also rehabbed homes within one mile of the subject. They stated they did not reconcile the previous sale with the current sale; however, the previous owner was an elderly person that was seeking a quick sale as was evident from MLS information. They stated the house was already well kept up and only need minimal improvements (carpet, paint). Finally, pertaining to the parking lot and store next to the property they stated this had minimal impact to the subject value and that comparable two also had similar site influences. They concluded that the market value was supported and that the appraisal was completed in 2004. Since that time they have changed appraisal forms, and taking continuing education as part of a continued process to promote professionalism and integrity.

Prior Complaint / Disciplinary History: 200210798 (Dismissed)
200501266 (Closed with a letter of warning)

Both - 200707941 (Closed with a letters of warning for both)

Recommendation and reasoning: Upon reviewing the appraisal, it is evident that the Respondents are in violation of Standard Rule 1-1 and 1-5. They failed to analyze the sales contract and prior listings which they indicated they did not receive from the mortgage company. The Respondents could have refused the assignment until a copy of the sales contract was obtained. In addition, the Respondents failed to analyze or give consideration to the prior sale of the property at \$10,000 which was only a few days prior to the appraisal date. An explanation of the \$50,000 spread should have been included in the appraisal report. The Respondents failed to give an explanation or support for the spread in the cost approach as it relates to the sales comparison approach; the spread was \$12,000.

(Standard Rule 1-1) The appraisal lacks a through analysis of the subject property and neighborhood influences. There are numerous foreclosures in proximity to subject which were not discussed in the report. Mr. Phillips recommendation was a civil penalty of \$500 for each respondent and a requirement that both attend a 15-hour Standard of Professional Practice course within 90 days. Both respondents were warned for similar violations prior to this complaint. Staff and counsel for the Commission concur with this recommendation and that it should be included within a proposed consent order, along with conditional authorization to commence a formal proceeding if Respondent does not accept the proposal.

Vote: Mr. Wade made a motion to accept legal counsel's recommendation. Mr. Woodford seconded the motion. The motion carried unopposed.

5. LO8-APP-RBS-2008005851

This complaint was filed by a consumer which alleged that the Respondent has in writing (via email) rendered an opinion of value prior to being under contract, viewing, measuring or being paid anything to complete an appraisal on a property which is part of a divorce dispute. The Complainant also alleged the Respondent may have an unethical relationship business and/or potential non-professional which is against the MDA agreement for divorce as well. The Complainant submitted as documentary evidence e-mails between the Respondent and the spouse in the divorce matter. The e-mail in question read, "I have looked at this and it looks like it would be somewhere in the 350-375 range. Send over the order if you want me to come out there and do this for you."

The Respondent stated in her response letter that, "I have not included (in response to the complaint) an appraisal because no appraisal was performed on the property in question." Further, in her response letter she stated, (Spouse) and I met about three and a half years ago while I was appraising a property that (Spouse) was conducting a home inspection on. We exchanged cards and spoke a little bit about each others respective businesses and that was it. About a year later I contracted him to perform a home inspection on a property that I was considering purchasing. (Spouse) produced a quality comprehensive home inspection report on that home, which I paid a normal and customary monetary fee for services. I did not purchase that home. And the only other time I have ever seen (Spouse) was about a year and a half ago when I saw (Spouse and Complainant) at a Real Estate Investors meeting. (Spouse) introduced me to (Complainant) then. We exchanged some small talk about business and that was the only time I have ever seen (Complainant) and the last time I have seen (Spouse).

On 02/28/2008 I received a message on my cell phone from (Spouse) to call back. I did and (Spouse) said (Complainant) had an appraisal done on their house. (Spouse) felt that the value of that appraisal seemed to be low from what (Spouse) had thought the sales in the area would be. (Spouse) also said that they were getting a divorce. (Spouse) had spoken to some realtors and they thought the average square footage price in his area was about \$116.00 a square foot. (Spouse) asked me if I would look at the neighborhood and let (Spouse) know what the recent sales prices were for houses similar to (their residence). I told him that I was going to be in that area the next day and would drive by and look at their property and the neighborhood. I said that I would research the recent similar sales in the area and the information from the tax record. I would let (Spouse) know a range of value of the recent sales prices in (Spouse's) neighborhood, but that it was not an opinion of value on (their residence) and that it was not an appraisal, it would be an analysis of data of area sales. I told (Spouse) that if (Spouse) wanted an appraisal done on (their residence), (Spouse) would have to order one. I told (Spouse) I would have to come out there and measure (their residence), take exterior and interior photographs, walk through the house, collect and analysis data and compile a report, to be an appraisal and that there would be a fee for the appraisal. (Spouse) said he/she understood. (Spouse) said all he/she wanted right now was a comparable market analysis. I told him that I would let (Spouse) know something in a few days.

On 02/29/2008 I emailed (Spouse) after I had gone by the property and researched the neighborhood, collected data and compiled a Comparative Market Analysis of the recent similar sales in the area. These are the exact words that I sent (Spouse) in the email, "I have looked at this and it looks like it would be

somewhere in the 350-375 range. Send over the order if you want me to come out there and do this for you." I did not send (Spouse) the CMA that I had compiled, I did not charge (Spouse) a fee and I did not and have not supplied any other information, other than the email. From our earlier phone conversation, I knew that (Spouse) was considering ordering an appraisal. (Spouse) had said the attorney had advised him/her to have his/her own appraisal completed. (Spouse) mentioned he/she had spoken to a couple appraisers.

On 03/02/2008, (Spouse) sent over a request for me to do a market value appraisal on (their residence). (Spouse) asked me to contact (Complainant) to gain access to the home and gave me (Complainant's) number. (Spouse) told me to let him/her know when I was able to get the appointment set up. I began to try to contact (Complainant) by phone to set up the appointment to do the appraisal, but after multiple attempts had been unable to set an appointment.

Later that same day, (Complainant) sent me a copy of an email that he/she had sent to (Spouse), saying that he/she was submitting a complaint about me to the State of Tennessee government. At that point, I called (Spouse) to ask him/her what was going on. (Spouse) said that he/she had been emailing his attorney and accidentally emailed her some of our correspondences at the same time. (Spouse) said, the attorney had pointed out that because of their disillusionment agreement, (Spouse) didn't have to have his/her own appraisal done. (Spouse) could just buy (Complainant) out based on the appraisal (Complainant) had done. (Spouse) said, he/she thought (Complainant) realized that he/she had made a mistake by getting an appraisal done on their house first. Because now (Complainant) realized (Spouse) could buy him/her out based on that appraisal. (Complainant) would not get as much money as he/she thought and was very angry about it. I told (Spouse) that I was declining the order to do an appraisal on the house. I have since emailed (Spouse) that I have declined the order. I thought it best to put it in writing.

My understanding of a Comparative Market Analysis is that it is just that, a Comparative Market Analysis. You collect and analysis the **comparable sales** in the market area and **determine a value** of the recent sales in that market area. As an appraiser, I was providing a valuation service to my client, (Spouse). As stated earlier, there was clear representation of the valuation services to be rendered in the engagement conversation. The scope of work description communicated with the client was not misleading. I did not and was not misrepresenting myself when providing this valuation service. I clearly stated that the work that I would be doing was not an appraisal. I believe that I conducted myself in a professional and ethical manner regarding this matter. I strive to always perform to the standards set forth in the Uniform Standards of Professional Appraisal Practice and Advisory Opinions. I did not provide my client with a complete written appraisal report because I declined the order on 03/05/2008.

Prior Complaint / Disciplinary History: None

Recommendation and reasoning: Respondent does not seem to understand that in providing a comparative market analysis, she has provided an appraisal, since a comparative market analysis is a value indication derived in the sales comparison approach. Staff and counsel for the Commission recommend that she be offered a consent order which will require her to take a 15 hour USPAP course with successful completion of the course exam, which will not count toward her continuing education requirements, with authority to commence a formal proceeding if she rejects this proposal.

Vote: Mr. Wade made a motion to accept legal counsel's recommendation. Mr. Phillips seconded the motion. The motion carried unopposed.

6. LO8-APP-RBS-2008006901 Mr. Woodford is the Reviewer

This complaint was filed by a consumer which alleged that the Respondent failed to identify numerous upgrades to the residence, misreported the ownership information/transfer history, misreporting rental information, using inappropriate comparable sales and under-valued the residential property.

The Respondent stated in her response letter that her client was not the Complainant, but a specified lender. She was instructed by her client not to have conversations with the borrower about the appraisal and she respected their confidentiality right. She stated that the updates or repairs to the property were mostly of good general maintenance items. She stated if the property had not had these upgrades she would have had to make a condition adjustment to the comparable sales. She stated the drive and patio did not look new, the stove and refrigerator were almost four years old. She stated she also reported and photographed several structural issues to the dwelling. She stated that the ownership issue was brought up to the client, and they were asked to verify with the title company; they did not so she reported the information she had available from courthouse retrieval. She stated that the complainant hoped to get enough in this refinance to finish the old things in the kitchen, renovate the other bathroom and put in a good driveway. When she stated that this was for a sale and not a refinance, she reported that he changed the subject. She saw a "for rent" sign in the basement, and the client had instructions that if those types of things were evident they were to be notified, so she called them. She stated she made an adjustment for the subject being a "for sale by owner" and the comparable sales being listed through the MLS. She stated she made appropriate choices for comparable sales and listings and included appropriate adjustments. She stated her opinion of value was \$20,000 lower than the contract price, which probably made the buyer mad, but that the appraisal management company was to handle dispute calls of this nature, so she never called him back.

Prior Complaint / Disciplinary History: 944602 (closed); 945180 (closed)

Recommendation and reasoning: Mr. Woodford considers that the appraiser's adjustment for brokered/non-brokered sales appears to indicate a lack of understanding that leads to a non-credible opinion; that the historical sale could certainly have been investigated further, especially due to the seeming confusion with the data source being used by the appraiser; that the appraisal would have been better understood if there were comments concerning the adjustments, especially as to the background for the land value, basis for the financing and other concession adjustments as well as derivation of size adjustment, etc.; and that the exclusion of the income approach was not explained by the appraiser – resulting in violations of USPAP Standard Rules 1-1(a), 1-5(b), 2-1(b) and 2-2(b)(viii). Mr. Woodford considers that the Respondent's provision for adjustments related to properties being sold or listed with agents is problematic and raises a competency issue. Accordingly, Mr. Woodford recommends that the Respondent receive additional education and be afforded the opportunity for an informal conference. Staff and counsel for the Commission concur with Mr. Woodford's recommendation with the only additional points being that the requirement for remedial education for this Respondent be put in a consent order instead of a letter of warning, that conditional authorization be granted for the commencement of formal proceedings should any informal conference be unsuccessful with Respondent rejecting the consent order, and that Mr. Woodford determine the nature of the specific remedial education the Respondent is required to obtain.

Vote: Mr. Headden made a motion to accept legal counsel's recommendation. Mr. Phillips seconded the motion. The motion carried unopposed.

7. LO8-APP-RBS-2008007432

This complaint was filed by a loan officer of a mortgage lender stated in his complaint that, "I ordered an appraisal from (Respondent), with the requested value on the form. The value she came back was 27K short of the one requested. Instead of doing a complete report, that I couldn't use, why didn't she do the report, when she has accessibility to values. Her response was "loan officers put down unrealistic numbers". (Complainant) checked to value on Zillow.com, before sending her the order. My client is out \$425.00, and no loan. Her attitude towards this whole situation is very unprofessional, bordering on criminal. It has to stop. People work too hard for what they have, for this kind of stuff to happen to them. When I called her about it, after she promised to "look into it" for me, she acted as if she didn't know who I was. This clearly showed me that she was after the money only, knowing she couldn't provide the service. I have to be the one to deal with the family that has no loan now."

The Respondent stated in her response letter that, "(Complainant) is unethical."

Reviewer: None

Prior Complaint/Disciplinary History: None

Recommendation and reasoning: Staff and counsel for the Commission recommend dismissing this matter as the Respondent appraiser to have not violated in laws, rules or standards in this matter.

This matter was referred also to the Department of Financial Institutions due to possible lender pressure violations. Tenn. Code Ann. § 45-13-108 (a) (15) sets forth that "the commissioner may suspend or revoke any license or registration issued under this chapter if the commissioner, after notice and opportunity for hearing, finds that the licensee or registrant is guilty of the following: (15) Attempting to intimidate a real estate appraiser or influence an appraiser's report relating to market conditions or determination of value."

Vote: Mr. Phillips made a motion to accept legal counsel's recommendation. Mr. Wade seconded the motion. The motion carried unopposed.

II. RULES

The Office of the Attorney General approved the public necessity rules which were approved by the Commission at its March 10, 2008 meeting in order to restore to Rule 1255-1-.08(1)(c)1 the requirement that applicants to become certified general real estate appraisers must have a minimum of 30 months of appraisal experience under the direct supervision of a certified real estate appraiser. This amendment was filed with the Secretary of State's Office and was effective on April 14, 2008 and corrected the prior typographical error to this rule which inadvertently stated that the applicable experience requirement was only 24 months. Proposed rules identical to the

public necessity rules are expected to go into effect in early June of this year to replace the public necessity rules, since public necessity rules are only effective for a period of 165 days.

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Being no further business, the meeting was adjourned at 10:40 a.m.

Nikole Avers, Administrative Director

William R. Flowers, Jr., Chairman