

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION STREET
SUITE 370
MONTGOMERY, ALABAMA
July 17, 2014

MEMBERS PRESENT:

Mr. Christopher Baker (Chairman)
Mr. Edmond G. Eslava, III (Vice-Chairman)
Mr. Dennis Key
Mr. Lew Watson
Mr. Billy Cotter
Mr. Richard D. Pettey
Ms. Angie Frost
Mr. Robert Butler
Mr. Chester Mallory

MEMBERS ABSENT:

None

OTHERS PRESENT:

Mrs. Lisa Brooks, Executive Director
Ms. Neva Conway, Legal Counsel
Mrs. Carolyn Greene, Executive Secretary
Mr. Joe Dixon, Investigator

GUESTS PRESENT:

Mr. Michael E. Lowery, Certified Residential Real Property Appraiser, Greenville, AL
Mr. Michael W. Lowery, Trainee Real Property Appraiser applicant, Greenville, AL
Mr. Patrick Mackin, Certified General Real Property Appraiser, Birmingham, AL

- 1.0 With quorum present Mr. Christopher Baker, Chairman, called the meeting to order at 9:20 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama. Prior notice of the meeting was posted on the Secretary of State's website on January 3, 2014 in accordance with the Alabama Open Meetings Act. The time of the meeting was updated on the Secretary of State's website on April 1, 2014 in accordance with the Alabama Open Meetings Act.
- 2.0 The meeting was opened with prayer, led by Mr. Key, followed by the Pledge of Allegiance, led by Mr. Mallory.
- 3.0 Members present were Mr. Chris Baker Mr. Billy Cotter, Mr. Dennis Key, Mr. Lew Watson, Mr. Edmond G. Eslava, III, Mr. Robert Butler, Ms. Angie

Frost, Mr. Richard D. Pettey, and Mr. Chester Mallory.

Mr. Baker welcomed the guests present and asked Board Members to introduce themselves.

4.0 On motion by Mr. Mallory and second by Mr. Watson, the regular minutes for May 15, 2014 were approved as written. Motion carried by unanimous vote.

5.0 Ms. Conway discussed Certificate of Judgment received on 56-CV-2011-900009.00 (Joshua M. Smith V. Alabama Real Estate Appraisers Board) with the Board. Ms. Conway stated that on May 9, 2014 the Court of Civil Appeals affirmed the Circuit Court of Randolph County's order which affirmed the Board's order suspending Mr. Smith's license for one month and levied an administrative fine of \$5000. Ms. Conway stated that Mr. Smith could have appealed this decision to the Supreme Court but did not.

6.0 At 9:45 a.m., Ms. Conway opened the Public Hearing on the following Administrative Rules:

- 780-X-3-.06 Qualifying Education Curricula
- 780-X-8-.01 Eligibility for Examination
- 780-X-9-.01 Classification of Real Estate Appraisers
- 780-X-16-.04 Application for Reciprocal Appraiser
- 780-X-17-.03 Registration

There was no one present to speak on the proposed amendments. Ms. Conway closed the Public Hearing at 9:47. On motion by Mr. Mallory and second by Mr. Eslava, the Board voted to adopt the rules as written with an added effective date of January 1, 2015 for 780-X-3-.06, 780-X-8-.01 and 780-X-9-.01, and instructed Ms. Conway to file the rules for final adoption. Motion carried by unanimous vote.

7.0 On motion by Mr. Eslava and second by Ms. Frost the following applications were voted on as listed. Motion carried by unanimous vote.

7.1 **Trainee Real Property Appraiser applications approved:** Martha A. Abbott, Thomas Pritchard Griffin, Christopher Corey Haiges, Michael W. Heatherly, Steven Scott Pace and Ami Boman Scott. **Applications deferred:** None. **Applications denied:** None.

Trainee Real Property Appraiser Experience Logs for Review: **Logs approved:** James Bohannon, Evan Burdette, Sandner Hennessey and Spencer Moore. **Logs deferred:** Markus Dunn, David Farmer, and Nathan Wallace. **Logs denied:** None.

7.2 **State Registered Real Property Appraiser applications approved:** None. **Applications deferred:** None. **Applications denied:** None.

7.3 **Licensed Real Property Appraiser applications approved:** Roger Clarence Hawks (Recip.)(GA). **Applications deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** Kathy Ann Crone (Recip.)(VA), Donald Haynes, Abby Jones, Brandon Thomas Owensby (Recip.)(GA) and Charles M. Underwood. **Applications deferred:** Benjamin Carpenter and Kevin Haefner. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Benjamin C. Allen (Recip.)(FL), James R. Barton, II, Paul Michael Burke (Recip.)(GA), Matthew Dwight Curl (Recip.)(GA), Walter Henry Gibbes, III (Recip.)(MS), Grace B. Long (Recip.)(MS), Samuel John McGehee (Recip.)(GA), Jason M. Stoutamire (Recip.)(GA), Terence O. Thielen (Recip.)(FL), Gregory Paul Thompson and Cynthia Nicole White (Recip.)(GA). **Application deferred:** Andrew Dunn Watson. **Applications denied:** None.

7.6 **Mentor applications approved:** None. **Applications deferred:** None. **Applications denied:** None.

8.0 Mrs. Brooks presented the Finance report and stated that the Board was 75% into Fiscal Year 2014 and 70% into budget expenditures. Mrs. Brooks stated that there were no negative trends that could not be reconciled at this time.

On motion by Ms. Frost and second by Mr. Mallory, the Board voted to approve the Financial Report. Motion carried by unanimous vote.

9.0 On motion by Mr. Watson and second by Mr. Eslava, the following education courses and instructor recommendations were approved, deferred, or denied as indicated. Motion carried by unanimous vote.

APPRAISAL INSTITUTE - NATIONAL

(CE) Using Spreadsheet Programs in Real Estate Appraisal-Synchronous – 7 Hours – Online

(Instructor: Jim Amarin)

Both Course and Instructor Approved

Mrs. Brooks discussed the Trainee/Mentor Orientation. On motion by Mr. Mallory and second by Ms. Frost, the Board voted to discontinue the Board's Trainee/Mentor Orientation that has been required for renewal because they had previously adopted the Appraisal Qualifications Board requirement for completion of the Supervisory Appraiser/Trainee Appraiser Course for all new Trainees and Mentors. Motion carried by unanimous vote.

10.0

The Board reviewed the following disciplinary reports.

AB-13-33 – On May 15, 2014, the Board approved a Consent Settlement Order with a Certified General appraiser Ray Brannum, G00260, where Licensee agreed to pay an administrative fine of \$1,000 to the Board. The violations in the reports are as follow: The assignment was a Market Value appraisal. Licensee only considered sales of REO / Foreclosed properties and the work file did not contain data to determine if a condition of sale adjustment should have been made. The work file did not contain records of comparable sales of non- REO properties so it is assumed that only REO properties were considered as comparable sales. Licensee did not perform the income approach because the business had been closed for a substantial period of time demonstrating a lack of understanding of the use of the income approach in this assignment. Licensee developed an opinion of highest and best use for the subject and then used sales in the comparison approach of properties with uses different than Licensee’s opinion of highest and best use for subject. This indicated that the licensee did not correctly employ the Sales Comparison Approach. Licensee committed a substantial error of omission by not performing the income approach because the business had been closed for a substantial period of time. Licensee failed to analyze the comparable sales utilized that would produce a credible assignment result. The comparables were REO properties that did not meet the definition of Market Value used in the appraisal and the condition of sale should have been analyzed. Licensee has no support or justification in the appraisal report or the licensees work file for the depreciation utilized. There is also no discussion, support of justification in the report or work file for the depreciated value of furniture utilized in the final value of the Cost Approach. Licensee analyzed and reported the Highest and Best Use of the subject property as one thing but used comparable sales and cost data from properties with different use to develop the opinion of value reported in the report. Licensee reported on the cover page the report that a “limited appraisal report” was performed. It was also noted that in the cover letter the licensee states that “A full report with the Assumptions and Limiting Conditions follow”. It was also noted that in the licensees report under the Assumptions and Limiting Conditions section the licensee states “This Appraisal Report is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Limited Appraisal Report” the same statement is made on page 10 of the report under section titled “Type Appraisal and Report”. The licensee states that the income approach was considered but because the business “had been closed for an extended period of time” was not used. An appraisal measures future benefits in to a present value, therefore a business not being operational for an extended time is not a valid reason for not doing an Income Approach. **Violations: SCOPE OF WORK RULE, Standards Rule 1-1(a), 1-1(b), 1-4(a), 1-4(b)(iii), 2-1(a), 2-2, 2-2(b)(viii), USPAP, 2012-2013 Ed.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway informed the Board 3 new complaints were received since

the May 2014 Board meeting, 4 complaints were dismissed, and 1 complaint was settled, leaving a total of 35 open complaints.

11.0

The Board reviewed Probable Cause Report **AB-13-43**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Eslava, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-50 companion case to AB-13-51**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Eslava, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-51 companion case to AB-13-50**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Eslava, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-52**: With Mr. Baker and Mr. Key recusing, on motion by Mr. Mallory and second by Mr. Eslava, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-53**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Butler and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-01**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Mallory and second by Mr. Eslava, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-02**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Mallory, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-03**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Eslava and second by Mr. Mallory, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-04 companion case to AB-14-05**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr. Butler and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-05 companion case to AB-14-04**: With Mr. Baker and Mr. Pettey recusing, on motion by Mr.

Butler and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-06**: With Mr. Pettey and Mr. Key recusing, on motion by Ms. Frost and second by Mr. Mallory, the Board voted that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-09 companion case to AB-14-10**: With Mr. Pettey recusing, on motion by Mr. Key and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-14-10 companion case to AB-14-09**: With Mr. Pettey recusing, on motion by Mr. Key and second by Ms. Frost, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

12.0 The Board reviewed the Consent Settlement Order on **AB-12-56**. With Mr. Key and Mr. Baker recusing, on motion by Mr. Mallory and second by Mr. Butler, the Board voted to not approve this Consent Settlement Order. The Board instructed Ms. Conway to continue negotiations with the licensee. Motion carried by unanimous vote.

The Board reviewed the Consent Settlement Order on **AB-13-37 (William M. Robbins, R00223)**. With Mr. Baker recusing, on motion by Mr. Eslava and second by Mr. Key, the Board voted to approve this Consent Settlement Order. Motion carried by unanimous vote.

The Board reviewed the Consent Settlement Order on **AB-13-39 (Alan Lloyd Daniel, R01205)**. With Mr. Baker recusing, on motion by Ms. Frost and second by Mr. Mallory, the Board voted to approve this Consent Settlement Order. Mr. Eslava opposed. Motion carried.

The Board reviewed the Consent Settlement Order on **AB-13-44, AB-13-45 and AB-13-46**. With Mr. Baker recusing, on motion by Mr. Eslava and second by Mr. Pettey, the Board voted to not approve this Consent Settlement Order. The Board instructed Ms. Conway to continue negotiations with the licensee. Motion carried by unanimous vote.

13.0 The following reciprocal licenses were issued since last meeting: Benjamin C. Allen ('G' FL), Paul Michael Burke ('G' GA), Kathy Ann Crone ('R' VA), Matthew Dwight Curl ('G' GA), Walter Henry Gibbes, III ('G' MS), Roger Clarence Hawks ('L' GA), Grace B. Long ('G' MS), Samuel John McGehee ('G' GA), Brandon Thomas Owensby ('R' GA), Jason Michael Stoutamire ('G' GA), Terence O'Neill Thielen ('G' FL), and Cynthia Nicole White ('G' GA).

14.0 The Temporary Permit report was provided to the Board for their information.

15.0 The Appraisal Management report was provided to the Board for their information.

Ms. Conway discussed a letter to Appraisal Management Companies that she drafted, at the Board's request, regarding requiring criminal background checks for Alabama appraisers on the AMC's approved list. On motion by Ms. Frost and second by Mr. Mallory, the Board voted to accept the letter as written and to send the letter to all Alabama registered Appraisal Management Companies. Motion carried by unanimous vote.

Ms. Frost asked if an online Letter of Good Standing request could be added to the website. Mrs. Brooks will research the matter and report back to the Board.

16.0 Mrs. Brooks included an Executive Director Salary report for Board information.

17.0 Mr. Pettey discussed the closed license status of Mr. Randy Grayson. Ms. Conway explained to the Board that the time for Mr. Grayson to ask for reconsideration of his closed status has expired as well as his time for appeal of the Board's decision denying his request for a license waiver. Ms. Conway further explained that reopening the decision would renew the time periods and expose the Board to potential litigation.

Ms. Conway informed the Board that it is prohibited from hiring a lobbyist by Executive Order and that having a legislative liaison on staff would require a salary of \$50,000 to \$100,000 annually.

18.0 There was no new business to discuss at this time.

19.0 At 10:56 a.m., on motion by Ms. Frost and second by Mr. Key, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's meeting schedule for the remainder of 2014 is September 18, 2014 and November 20, 2014 in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama.

Sincerely,

Carolyn Greene
Executive Secretary
/cg

APPROVED: _____
Christopher Baker, Chairman