

DISCIPLINARY REPORT

May 17, 2012

AB 09-63; AB 09-64; AB 09-65; AB 09-66 On March 15, 2012, the Board adopted the recommendation of the Administrative Law Judge and revoked the Certified Residential License R00282 of Silas N. Williams. Williams was also assessed an administrative fine of \$10,000. Williams did not attend the administrative hearing on the cases and had a prior discipline history.

AB 10-51 On March 15, 2012, the Board entered an order after an administrative hearing and publicly reprimanded Alan Vincent Bennett, Certified Residential Appraiser R01148. Bennett was also assessed an administrative fine of \$6000, ordered to complete additional education and is on probation for one year. The violations are as follows: The market conditions of the subject property market area were not stable, contrary to the report. Statements included in the Respondent's report on page 1 under Neighborhood, in the Market Conditions section, were not true and were misleading. The Market Conditions Addendum generated by the investigator for the area within 0.5 mile proximity of the subject indicates a decreasing overall trend to the market instead of increasing as Respondent reported. The Respondent's work file was incomplete. It did not contain data, information, or documentation necessary to support the opinion of site value reported in the written report or the adjustments for site and gross living area in the sales comparison approach. Respondent failed to use the best comparable sales that were available at the time of the appraisal. Respondent used sales he obtained from Courthouse Retrieval System where the terms and conditions of the sale were not available. There were other sales available to the Respondent, through the local MLS that Respondent had access to, that would have resulted in a substantially different result. Respondent utilized an effective age of 25 years for a house that had been actual age of 56 years. Respondent had no support for this estimate of effective age other than the following statement: "The subject is of average construction and in average condition. Recent repairs include plumbing, HVAC and electrical up-grade, new paint & floor covering." The Respondent did not go into detail in the report about these repairs. There nothing in the work file that explains what was done or how much was spent on the repairs. The Respondent does not state when these repairs were completed and if they were completed before the sale date 6/1/2009. Respondent did not verify the comparable sales utilized in the sales comparison approach with a party to the transaction. Respondent had no support for the opinion of site value set out in the report. County assessment values were used, which is not an appropriate appraisal method or technique to determine lot value. The Respondent did not analyze the agreement of sale, but only listed facts that were in the contract such as sales price, date of the contract, and sales concessions. There was not analysis as to the motivation of buyer or seller, no consideration of whether both parties were well informed or advised, no analysis of whether there was reasonable exposure to the open market or whether the price was influenced by special or creative financing. Respondent's report contained misleading information about the market conditions in the subject neighborhood that could not be supported with market data. The Respondent's written appraisal report did not contain a

summary of the information analyzed or the reasoning that supports the Respondent's opinion and conclusion of site value. The Respondent's report did not contain information analyzed or the reasoning that supports the Respondent's opinion and conclusion for adjustments for site or gross living area in the sales comparison approach. **Violations: Ethics Rule of Conduct, Ethics Rule of Record Keeping, Standard Rule 1-1(a), 1-3(a), 1-4(a), 1-4(b)(I), 1-5(a), 2-1(a), 2-1(b), and 2-2(b)(viii), USPAP 2008-2009 Ed.**

AB 10-16; AB 10-119; AB 11-36 On March 15, 2012 the Board accepted the voluntary surrender of Certified General License G00392 or Rankin R. Rossell in lieu of a hearing before the Board.

AB 10-42 On March 15, 2012, the Board approved a Consent Settlement Order and issued a private reprimand to a Certified Residential Appraiser. The licensee also agreed to complete a continuing education course on the appraisal of historic properties and pay a \$300 administrative fine. Licensee may not claim Continuing Education credit for the education course. The violations are as follows: Licensee fails to use the best comparable sales that were available at the time of the appraisal. Licensee used homes that were located in a historical district when the subject property was not located in such a district. The comparable sales had a wide dissimilar range of ages and dissimilar design. There were other sales available to the licensee that would have resulted in a substantially different result. Using comparable sales that were located in a historical district and not adjusting for that fact when other comparable sales were available is a substantial error of omission or commission that significantly affected the appraisal. Licensee utilized an effective age of one year for a residence with an actual age of 68 years. Licensee had no justification for this effective age estimate. It may be noted that the licensee did include photos of the interior of the residence that could indicate some remodeling and updates had taken place but no explanation as to what was done. The licensee adjusted \$9,500.00 for absence of an in ground pool. The licensee has no support for the adjustment nor did the licensee offer any discussion the source of this adjustment. The licensee made no adjustment for age even though it was noted that comparable 1 was built in 1885, comparable 2 was built in 1872, comparable 3 was built in 2005 comparable 4 was built in 1904 and comparable 5 was built in 1958. The subject was reportedly built in 1940. Licensee's justification was "No adjustment were given to comps age difference used due to the opinion of the appraiser their effective age being similar to subjects effective age due to comps 1, 2 and 5 being total remodeled. Comps 3 is newer in age but effective age would also be similar to subject." The main structure of all the properties, the foundation, the framing, the roof rafters, floor joists, and exterior siding are all original and contribute a significant part to the replacement cost of each structure, therefore the effective ages of these properties can not be similar. The licensee valued the "As is" Value of site improvements at \$7,500. This value does not correspond with the \$9,500 adjustment in the sales comparison approach for just the swimming pool. It appears the swimming pool was not considered in the Cost Approach. The licensee did not provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions expressed in the report. The licensee did not provide sufficient information to enable the client and intended users to understand the rationale

for the opinions and conclusions expressed in the report. The report contained no analyses reasoning to support the licensee's opinions and conclusions. **Violations: Standard Rules 1-1(a), 1-1(b), 1-3(a), 1-4(a), 1-4(b)(ii), 2-1(b), 2-2(b)(viii), USPAP, 2008 Ed.**

AB 10-59 On March 15, 2012, the Board approved a Consent Settlement Order for Edgar S. Reeves, T01588. Reeves agreed to pay a \$1000 administrative fine for appraising beyond the scope of his Mentor's license. The violations are: Licensee stated the 50 year site index for loblolly pine as 9-95 feet. The figure for the 50 year site index was 90-95 feet. Licensee included a comment between the charts on Table 2 that did not apply to the sales used in the charts. Licensee stated the contract date (mm/yy) as the date of sale in Comparable Sale #3 on Table #1 of the Sales Comparison Approach. Licensee omitted the intended use of the appraisal report. Licensee failed to include Sale #3 in the comment that Sales 1, 2, 3 and 4 were involved with a Type A timber contract. Licensee stated the Cost Approach was not applicable and did not explain why. **Violations: Competency Rule, Standard Rule 2-1(a), 2-1(b), 2-2(b)(viii), USPAP, 2008 Ed.**

AB 10-102 On March 15, 2012, the Board approved a Consent Settlement Order for Michael A. Noble, R00743. Licensee agreed to complete a Board approved course on residential income producing property which may not be used for CE credit. Licensee also agreed to pay a \$1750 administrative fine. The violations are: Licensee failed to prepare, develop and communicate an appraisal with sufficient research and analysis and failed to use develop the income approach necessary for credible assignment results for an income producing property. Licensee's appraisal report failed to contain sufficient information, to allow the intended user to understand the work performed or not performed. Licensee prepared, developed and communicated a small residential (duplex) income property appraisal assignment on a Fannie Mae 1004/Freddie Mac 72 form, which the form was not designed for the reporting of a duplex rental property appraisal assignment. Licensee, in the Sales Comparison Approach, analyzed misstated elements of comparison and failed to state and analyze other elements of comparison. Licensee excluded the Income Approach, when sufficient information was available within the real estate market. Licensee failed to develop the Income Approach, Comparable Rental Data and Subject Rent Schedule. Licensee failed to provide and analyze sufficient information, within the Operating Income Statement, for the Operating Income Statement to be credible. Licensee failed to analyze the Subject's negative net cash flow from the Operating Income Statement as an adverse market condition for the Subject property. Licensee prepared, developed and communicated a small residential (duplex) income property appraisal assignment on a Fannie Mae 1004/Freddie Mac 72 form, which the form was not designed for the reporting of a duplex residential rental property appraisal assignment. Licensee excluded the Income Approach, when sufficient information was available within the real estate market. Licensee failed to develop the Income Approach, Comparable Rental Data and Subject Rent Schedule. Licensee failed to provide and analyze sufficient information, within the Operating Income Statement, for the Operating Income Statement to be credible. Licensee failed to analyze the Subject's negative net cash flow from the Operating Income Statement as an adverse market condition for the

Subject property. Licensee stated the effective date of the appraisal as 7/24/2007 on URAR page 2 of 6 and then stated the effective date of the appraisal as 7/25/2007 on URAR page 6 of 6. In the Improvements/General Description section, Licensee indicated the Subject duplex was one (1) unit construction, when the Subject was two (2) unit construction. Licensee failed to report and analyze the leases/rental agreements of the tenant occupied property that was the subject of the assignment. Licensee failed to analyze the comparable rental data and potential earning capacity of the Subject property to estimate the gross income potential of the property or provide a reason for the lack of an analysis. Licensee failed to analyze comparable operating expense data to estimate the operating expenses of the property or provide a reason for the lack of an analysis. Licensee failed to analyze comparable data to estimate capitalization/ discount rates that may apply to the Subject property or provide a reason for the lack of an analysis. Licensee failed to analyze some of the expenses and reserves associated with the ownership of the Subject property or provide a reason for the lack of an analysis. Licensee failed to consider that the seller was a licensed real estate agent in Alabama and one of the purchasers (a broker) was a 50% equity purchaser. Licensee failed to reconcile the quality and quantity of data available and analyzed or not analyzed within the Sales Comparison Approach. The Income Approach was not employed when sufficient information was available. Licensee failed to include available data and use it to reach credible results. In the Subject/Neighborhood Name section, Licensee stated the name of the recorded subdivision where the Subject is located. In the Neighborhood/Neighborhood Boundaries section, Licensee stated the boundaries of the actual neighborhood where the Subject is located. The neighborhood boundaries, as stated in the appraisal report, failed to reflect the neighborhood named in the appraisal report. *(The subdivision was a small section within the neighborhood described.)* In the Improvements/General Description/Units section, Licensee indicated the Subject was a one-unit in the check box when the Subject contained two units. In the Cost Approach/Amenities section of the dwelling cost, Licensee stated the amenities of Kitchen Equipment, Fireplace, Fans, Patio, Porch, and Deck. The comment was canned language that was not the actual list of amenities for the Subject. There was no fireplace, patio and deck as listed. Licensee provided the address of one unit of the duplex but failed to provide the address of the other unit of the duplex within the appraisal report. Licensee stated the effective date of the appraisal as 7/24/2007 on URAR page 2 of 6 and then stated the effective date of the appraisal as 7/25/2007 on URAR page 6 of 6. In the Subject/Owner of Public Record section, Licensee failed to provide the name of the owner of public record. In the Subject/Map Reference section, Licensee stated a map reference number but failed to provide the source of the map reference number that was stated. In the Subject/Offering information section, Licensee failed to provide the offering/list price. In the Neighborhood/Present Land Use %, Licensee reported a 5% other land use without a description of other. In the Site/Zoning Description section, Licensee reported the zoning description as Residential instead of Multi-Family Residential. In the Improvements/Exterior Description/Materials/Condition section, Licensee failed to provide the condition rating of the windows, storm sash and screens. In the Sales Comparison Approach-Garage/Carport section, Licensee stated Driveway as the elements of comparison for the garage/carport of the Subject and comparables. The term "driveway" is not descriptive of garage or carport. Licensee failed to provide an

analysis of the garage/carport elements of comparison. Licensee reported the appraisal assignment on a URAR 1004 form, which did not provide the sufficient information needed to analyze a duplex property. Information for the Subject and comparables were not stated and analyzed such as the gross monthly rent, gross rent multiplier, price per unit, price per room, price per bedroom, unit breakdown (total rooms, bedrooms, baths) adjusted price per unit, adjusted price per room, adjusted price per bedroom, value per unit, value per room, value per gross building area, value per bedroom and square feet of gross living area per unit. In the Sales Comparison Approach/Prior Sale-Transfer section, Licensee failed to provide the data source used to verify the sale and transfer history of the comparables. In the Cost Approach/Support for the opinion of site value section, Licensee failed to provide support for the method used to develop the opinion of site value. In the Cost Approach/Comments section, Licensee made a comment, "Subject conforms to minimum acceptable property standards for HUD/VA." and failed to explain why the comment was in the appraisal report, when the assignment was not a HUD (FHA)/VA assignment. In the FIRREA/USPAP Addendum/Exposure Time/Marketing Time section, Licensee indicated the Exposure Time and Marketing Time was shown on the URAR when only the Marketing Time was provided. Licensee failed to provide and analyze sufficient information, within the Operating Income Statement, for the Operating Income Statement to be credible. Licensee failed to provide the: Utilities Expense-Fuel oil & Fuel(other) (*no indication of owner or tenant paid*); Annual Income and Expense Projection for Next 12 months not provided: Less Vacancy/Rent Loss (*no information as to why no rent loss or vacancy*); Pest Control (*no pest control cost or reason for no allowance cost to owner*); Other Taxes or Licenses (*no information on no allowance cost for taxes, license to owner*); Casual Labor (*no information on no casual labor allowance cost to owner*); Interior Painting/Decoration (*no information on no painting/decoration cost allowance to owner*); Management Expenses (*no information on no management expense allowance to owner*); Supplies (*no information on no supplies allowance cost to owner*); Replacement Reserve Schedule; Water Heater(s) (*no reserve replacement cost provided*); Furnace(s) (*no reserve replacement cost provided*); Floor Covering (*no reserve replacement cost provided*); Operating Income Reconciliation; Negative Net Cash Flow (*A monthly negative cash flow of \$321 with no reconciliation of being an adverse market condition for the Subject or a reason provide of not being an adverse market condition for the Subject.*) Licensee failed to summarize sufficient information to identify the Subject property as a small residential (duplex) income property.

Licensee stated the effective date of the appraisal as 7/24/2007 on URAR page 2 of 6 and then stated the effective date of the appraisal as 7/25/2007 on URAR page 6 of 6.

Licensee failed to completely summarize the Scope of Work in preparing and developing an appraisal of a small residential (duplex) income property. Licensee failed to explain the reason for the exclusion of the Income Approach. Licensee indicated the highest and best use of the subject property as improved was the present use and was tenant occupied. Licensee failed to explain the present use was a two unit rental property and not a one unit as indicated in the appraisal report. **Violations: Scope of Work Rule, Standard Rules 1-1(a), 1-1(b), 1-2, 1-4, 1-5, 1-6, 2-1(a), 2-1(b), 2-2(b), USPAP, 2006 Ed.**