

DISCIPLINARY REPORT

May 21, 2015

AB 12-33 The Board approved a Consent Settlement Order on March 19, 2015 where the Respondent agreed to a private reprimand, a \$5,000 administrative fine and loss of his Mentor status. This Consent Settlement Order agreement was reached in settlement of an administrative hearing. The violations in the report are: The licensee did not follow recognized methods and techniques that are necessary to produce a credible appraisal. The licensee did not do the necessary research to properly analyze the market conditions for the subject at the time of the date of value. Even though the language in the report indicates that Licensee knew the proper methods and techniques to produce a credible report, Licensee did not complete the research necessary to properly estimate the gross income and expenses for the subject. Licensee did not use the proper technique to convert this income stream into an estimated value. Licensee relied on comparable sales furnished by the client and did no independent search for comparable sales or verification of the data provided by the client. Licensee recited the appropriate recognized methods and techniques need to produce a credible appraisal which demonstrated that the Licensee has competency to produce a credible results. Because he demonstrates competency to complete the assignment, Licensee has produced a misleading appraisal. In “Scope of the Appraisal” section of the report, subsection titled “The Problem Solution” the licensee describes the work he completed in developing the appraisal: “numerous rental comparables were examined in estimating the economic rent for the subject. Occupancy levels were obtained from comparable properties. Historical expenses realized by similar properties and those expected for the subject were utilized in estimating total expenses”. There was no comparable rental data, no rental analysis, no occupancy analysis, no comparable historical expenses, or analysis of comparable historical expenses set out in the appraisal report or included in the work file. Licensee’s statement about his Scope of Work is overstated. In the appraisal report it was noted that on page 12 under the section titled “Income Approach” the licensee states “The direct capitalization method is most useful where income streams are relatively constant”. The Appraisal of Real Estate, states on page 499 that “This methodology may be less useful for properties going through an initial lease-up or when income or expenses are expected to change in an irregular pattern overtime.” According to the licensee’s statements in the report and the data contained in the report and work file, the income was very unstable and as the licensee stated on page 12 of the report “The discounted cash flow analysis is most useful for analyzing property with irregular income streams.” Even though the licensee stated there was an unstable income stream the licensee utilized direct capitalization which the licensee stated in the report was the less reliable technique. The licensee reports that this was a retrospective appraisal with a date of inspection of March 10, 2011, a date of the report being March 11, 2011 and a date of value being October 1, 2006. The executive summary of the appraisal report states the “Date of Value” is October 1, 2006 with March 11, 2011 being “Date of Inspection”. On page 9 of the report under the “Effective Date” section of the report the licensee states “The effective date of this assignment is the date of the appraiser’s last physical inspection of the property.” The licensee stated in his cover letter that his value was in “leased fee”, but on page 9, page 10 in two places, page

14 and page 17 stated the value was “fee simple”. The licensee indicates in his letter of transmission that the purpose and use for the appraisal was for use in a tax protest. Yet on page 9 of the report under the “Intended Use” section the licensee states that “The primary intended use of this assignment is for the purpose of financing the property”. On page 13 of the appraisal report the licensee states “confirmed and analyzed the data and applied the sales comparison and cost approaches.” On page 34 under “Summary of Analysis and Valuation”, the “Cost Approach” section of the report the licensee states “Therefore, no analysis is prepared for this approach.” On page 34, the “Highest and Best Use” section the licensee states “the highest and best use of the site “as improved” is considered to be its’ continued existing use as a convenience store.” This is in contrast to what the licensee reported on the letter of transmittal, the “Executive Summary” , also on page 24 of the report under the “Property Description” section the licensee states “Highest and Best use As Improved: Shopping Center, As Is.” The licensee also states on page 27 of the report under the “Subject Improvements Description” that the property is a Shopping Center. The licensee stated on page 39 that Comparable Sale No. 1 sold on January 5, 2004, this is contradicted by a copy of the deed for the transfer of ownership which is dated November 15, 2004. The licensee stated in his cover letter that his value was in “leased fee”, but on page 9, page 10 in two places, page 14 and page 17 stated the value was “fee simple”. The licensee utilized data that was after the effective date of value of October 1, 2006. Comparable Sale 3 sold on March 1, 2007, approximately 5 months after the date of value. Comparable Sale 4 sold on December 6, 2006, approximately 2 months after the date of value. Comparable Sale 5 sold February 1, 2007 which was approximately 4 months after the date of value. The licensee also referred to events that took place after the date of value in the “Location Description” section of the report located on page 20 of the report. The licensee referred to a new Pro Bass Shop opened in October 2008 that had been rumored for over 5 years but was not formally announced according to AL.com until May 25, 2007, approximately 8 months after the date of value and not opened until 2 years after date of value. The licensee referred to a new regional outlet mall that wasn’t announced according to AL.com until November 30, 2007, approximately 13 months after the date of value and that did not open until October, 2010. USPAP Statement 3 states “In retrospective value opinions, use of a modifier for the term “market value” and past verb tenses increases clarity (e.g., “. . . the retrospective market value was . . .” instead of “. . . the market value is . . .”). During the review of the report it was noted that on the Letter of Transmittal and on page 50 of the report the licensee states the “Market Value”. Licensee communicated several misleading statements as to scope and depth of research completed along with making un-supported statements about the market conditions that existed at the time of value. Licensee also utilized statements about events that happened after the effective date of value and statements about events that had happened 30 years before the date of value but made the events sound like they had been recent events. The licensee indicates in his letter of transmission that the purpose and use for the appraisal was for use in a tax protest. Yet on page 9 of the report under the “Intended Use” section the licensee states that “The primary intended use of this assignment is for the purpose of financing the property”. The licensee stated in his cover letter that his value was in “leased fee”, but on page 9, page 10 in two places, page 14 and page 17 stated the value was “fee simple”. In the appraisal report under the “Scope of the Appraisal” section and the section titled “The

Problem Solution” the licensee states “numerous rental comparables were examined in estimating the economic rent for the subject. Occupancy levels were obtained from comparable properties. Historical expenses realized by similar properties and those expected for the subject were utilized in estimating total expenses”. There was no comparable rentals or rental analyses, no occupancy analyses and no comparable historical expenses or analyses in the appraisal report or the work file. **Ethics Rule-Conduct; Scope of Work Rule-Acceptability; Standards Rule 1-1(a); 1-1(c); 1-2(e)(ii); Statement on Appraisal Standards NO. 3 (SMT-3); Standards Rule 2-1(a); 2-2(b)(ii); 2-2(b)(iv); 2-2(b)(vii); USPAP, 2010-2011 Ed., §34-27A-20(a)(6), Code of Alabama, 1975.**

AB 14-12 The Board approved a Consent Settlement Order on March 19, 2015 where the Respondent agreed to a private reprimand, an \$1,800 administrative fine and completion of a 15 hour USPAP course with Exam. The violations in the report are: Licensee failed to identify that the Subject property consisted of 5 lots located in a waterfront development with HOA dues and amenities. Licensee used a laser device to measure the improvement and the result an incorrect. Licensee relied on software to compute the site area and the result was an understatement of site area by approximately one-third. Licensee failed to take sufficient steps to explain why the measurements obtained from personal inspection were significantly different than public records. As a result of these errors, the development of the appraisal was made from inappropriate data which resulted in a non credible report. In the development and reporting of this appraisal, the following Standards were violated: **Standards Rule 1-1(a); 1-1(b); 1-1(c); 1-2(e); 1-4(b)(ii); 1-4(b)(iii); 1-4(e); 1-6(a);1-6(b); 2-1(a); 2-2(a)(viii); 2-2(a)(x), USPAP, 2014-2015 Ed.; §34-27A-20(a)(6), Code of Alabama, 1975.**