

**MINUTES**  
**ALABAMA REAL ESTATE APPRAISERS BOARD**  
**RSA UNION STREET**  
**SUITE 370**  
**MONTGOMERY, ALABAMA**  
**May 21, 2015**

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

None

**OTHERS PRESENT:**

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

**GUEST PRESENT:**

Mr. Chester Mallory

1.0 With quorum present, Mr. Christopher Baker, Chairman, called the meeting to order at 9:12 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the 3<sup>rd</sup> Floor Conference Room, 100 North Union Street, Montgomery, Alabama. Prior notice of the meeting was posted on the Secretary of State's website on December 3, 2014 in accordance with the Alabama Open Meetings Act.

2.0 The meeting was opened with prayer by Mr. Watson followed by the Pledge of Allegiance, led by Ms. Conway.

3.0 Members present were, Mr. Christopher Baker, Mr. Edmond G. Eslava, III, Mr. Billy Cotter, Mr. Lew Watson, Mr. Robert Butler, Mr. Richard D. Pettey, Mr. Dennis Key, Ms. Angie Frost, and Ms. Patrice McClammy.

Mr. Baker welcomed new At-Large Board member, Ms. Patrice

McClammy, and asked the Board Members and staff to introduce themselves.

- 4.0 On motion by Mr. Watson and second by Mr. Eslava, the regular minutes for March 19, 2015 were approved as written. Motion carried by unanimous vote.

Ms. Conway conducted the swearing in of new Board member Ms. McClammy, replacing Mr. Chester Mallory.

At this time Mr. Baker presented outgoing Board member, Mr. Chester Mallory, with a Proclamation of Appreciation from Governor Bentley. Mrs. Brooks expressed her gratitude to Mr. Mallory for his service to the Board and Mrs. Brooks' pleasure in working with him during his tenure.

Mr. Eslava made a motion to hold the annual election of officers. Mr. Key seconded the motion. Motion carried by unanimous vote. Mrs. Brooks opened nominations for the Chairman position. Mr. Watson made a motion to nominate Mr. Eslava for the position of Chairman. Mr. Cotter seconded the nomination. On motion by Mr. Watson and second by Mr. Pettey, the nominations were closed. The Board voted to elect Mr. Eslava as Chairman of the Board. Motion carried by unanimous vote.

Mrs. Brooks opened nominations for the Vice-Chairman position. Mr. Pettey nominated Mr. Key for the position of Vice-Chairman. Ms. Frost seconded the nomination. On motion by Mr. Watson and second by Mr. Pettey, the nominations were closed. The Board voted to elect Mr. Key as Vice-Chairman of the Board. The motion carried by unanimous vote.

Mr. Eslava thanked the Board and told them he looked forward to serving as Chairman.

- 5.0 Ms. Conway informed the Board that the hearing scheduled for this meeting had been settled.

- 6.0 Mr. Watson informed the Board that there was no Legislative report to present.

- 7.0 On motion by Mr. Baker and second by Mr. Watson, the following applications were voted on as listed. Motion carried by unanimous vote.

- 7.1 **Trainee Real Property Appraiser applications approved:** None. **Applications deferred:** None. **Applications denied:** None.

**Trainee Real Property Appraiser Experience Logs for Review:** **Logs approved:** Chris Greene and Nancy Turner. **Logs deferred:** Michael Bayne Dunaway, Tammie Haddock and David Clark Stewart. **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:** Denise Hill and John Stewart Prestwood (Recip.)(TN). **Applications deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** James Mark Christensen (Recip.)(MO). **Applications deferred:** David Ikard and John Kenneth Lewis. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Walter Lamar Abbott (Recip.)(FL), Jamison Walter Allen (Recip.)(TN), Michael David Da Kroob (Recip.)(CA), Dale William Hayter, Jr. (Recip.)(GA), Chris J. Kohler (Recip.)(FL), Brandon Reid Moorhead (Recip.)(FL), Stuart Tyler Nelson (Recip.)(GA), Gary R. Papke (Recip.)(IL), Kenneth A. Pettay (Recip.)(GA), Tim A. Simpson (Recip.)(TN) and William Leon Springer (Recip.)(TX). **Applications deferred:** Sean Almeida and Terry Preston Little. **Applications denied:** None.

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

8.0 Ms. Frost presented the Finance report and stated that the Board was 58% into Fiscal Year 2015 and 53% into budget expenditures. Ms. Frost stated that there were no negative trends that could not be reconciled at this time.

On motion by Mr. Key and second by Mr. Watson, the Board voted to approve the Financial Reports. Motion carried by unanimous vote.

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

### **ALLTERRA GROUP, LLC**

#### **New Application:**

(CE) FHA Appraisals and Reporting Requirements – 7 Hours – Online  
(Instructors: Peter Gillispie and Craig Julian)  
**Both Course and Instructors Approved**

### **APPRAISAL INSTITUTE – ALABAMA CHAPTER**

#### **New Application:**

(CE) Best Practice for the Real Estate Appraiser – 7 Hours – Classroom  
(Instructor: Wayne Pugh)  
**Both Course and Instructor Approved**

## **APPRAISAL INSTITUTE – CHICAGO CHAPTER**

### **New Application:**

- (CE) Contract or Effective Rent: Finding the Real Rent – 4 Hours – Classroom  
(Instructor: Tom Hamilton)  
**Both Course and Instructor Approved**

## **GEORGIA MLS TRAINING INSTITUTE**

### **New Applications:**

- (CE) 2014-2015 7 Hour Equivalent USPAP Update – 7 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**
- (CE) National Appraising for the Supervisor and Trainee – 4 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**
- (CE) FHA & VA Today – 7 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**
- (CE) Methodology and Application of Sales Comparison – 7 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**
- (CE) Defensible Appraising – 7 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**
- (CE) Appraisal Review of Residential Properties – 7 Hours – Online  
(Instructor: Wade Gaddy)  
**Both Course and Instructor Approved**

## **MCKISSOCK, LP**

### **New Applications:**

- (CE) The NEW FHA Handbook 4000.1 – 7 Hours – Classroom  
(Instructors: Dan Bradley, Wally Czekalski, Chuck Huntoon, Tracy Martin, Larry McMillen, Steve Vehmeier, Steve Maher and John Smithmyer)  
**Both Course and Instructors Approved**

- (CE) The NEW FHA Handbook 4000.1 – 7 Hours – Online  
(Instructor: Dan Bradley)  
**Both Course and Instructor Approved**
- (CE) Appraisal Review for Commercial Appraisers – 7 Hours – Online  
(Instructor: Paul Lorenzen)  
**Both Course and Instructor Approved**
- (CE) Marcellus Shale: Effects of Energy Resource Operations – 3  
Hours – Online  
(Instructor: Dan Bradley)  
**Both Course and Instructor Approved**

### **NAIFA**

#### **New Application:**

- (CE) Today's FHA & VA – 7 Hours – Classroom  
(Instructor: Mike Orman)  
**Both Course and Instructor Approved**

10.0 The Board reviewed the following disciplinary reports.

**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.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway informed the Board 7 new complaints were received since the March 2015 Board meeting, 3 complaints were dismissed, and 2 complaints were settled, leaving a total of 27 open complaints.

Mr. Eslava made a motion to have Board staff notify Board members when a complaint has been lodged against an appraiser who lives in the Board member's Congressional district. The motion was tabled until the July Board meeting.

- 11.0 The Board reviewed Probable Cause Report **AB-14-17**: With Mr. Key and Mr. Butler recusing, on motion by Mr. Pettey and second by Ms. Frost, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-15-01**: With Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Watson, 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-15-03**: With Mr. Key recusing, on motion by Mr. Butler and second by Mr. Pettey, 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-15-06**: With Mr. Pettey recusing, on motion by Mr. Key and second by Mr. Butler, 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 (David Wayne Sumners, G00805)**. With Mr. Baker and Mr. Key recusing, on motion by Mr. Cotter and second by Mr. Watson, the Board voted to approve this Consent Settlement Order. Mr. Eslava opposed the motion. Motion carried.

- 13.0 The following reciprocal licenses were issued since the March Board meeting: Walter Lamar Abbott ('G' FL), Jamison Walter Allen ('G')(TN),

James Mark Christensen ('R')(MO), Michael David Da Kroob ('G')(CA), Dale William Hayter, Jr. ('G')(GA), Chris J. Kohler ('G')(FL), Brandon Reid Moorhead ('G')(FL), Stuart Tyler Nelson ('G')(GA), Gary R. Papke ('G' IL), Kenneth A. Pettay ('G')(GA), John Stewart Prestwood ('L')(TN), Tim A. Simpson ('G')(TN) and William Leon Springer ('G')(TX).

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

At this time, Mr. Eslava discussed having a work session for Board members. On motion by Ms. McClammy and second by Ms. Frost, the Board voted to hold a work session for Board members. Motion carried by unanimous vote. Mrs. Brooks will email a list of possible dates to the Board members for consideration. Notice of the meeting will be posted on the Secretary of State's website in accordance with the Alabama Open Meetings Act.

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

The Board discussed the proposed revision to 780-X-1-.17 'Study of Customary and Reasonable Fee for Appraisals of Alabama Properties', 780-X-17-.09 'Appraiser Qualifications', 780-X-17-.11 'Appraiser Competency' and 780-X-17-.18 'Business Practices'. On motion by Ms. Frost and second by Mr. Watson, the Board voted to approve the proposed revisions with the correction to 780-X-1-.17 (b) to read The Board shall annually consider the need for the commission of a new fee survey. The Board voted unanimously to have Ms. Conway file the proposed amendment with Legislative Reference Services for permanent adoption.

- 16.0 Mrs. Brooks discussed the following administrative items:

- Examiners of Public Account Legal Audit and Status Report.
- Agency Account Clerk vacancy.
- Association of Appraisal Regulatory Officials (AARO) conference report. Mr. Watson, Mr. Butler and Mr. Cotter reported on the conference.
- Mrs. Brooks and Ms. Conway met with Senator Williams regarding the confidentiality of the identity of complainants. The Board will discuss this further in the upcoming work session.
- Final Adoption of 780-X-6-.05 'Qualifying Experience – Certified General Real Property Appraiser'. On motion by Mr. Watson and second by Mr. Butler, the Board voted to adopt the rules as published, and instructed Ms. Conway to file the rules for final adoption. Motion carried by unanimous vote.

- Final Adoption of 780-X-12.01 'Expirations and Renewals'. On motion by Mr. Key and second by Ms. McClammy, the Board voted to adopt the rules as published, and instructed Ms. Conway to file the rules for final adoption. Motion carried by unanimous vote.
- An email from Mr. Mark Gordon regarding HUD/FHA termite letter guidelines. Mr. Gordon has determined that there is no longer an issue.
- Mrs. Brooks discussed an email from Mr. Joe Batrich regarding review appraisals. On motion by Mr. Baker and second by Mr. Pettey, the Board voted to table the discussion until the July Board meeting.

Ms. Conway discussed Ms. Judith Haney's correspondence regarding Ms. Frost's and Mr. Baker's reappointments to the Board. On motion by Ms. Frost and second by Mr. Butler, the Board voted to request an Informal Ethics Opinion. Motion carried by unanimous vote.

Ms. Conway discussed the United State Supreme Court decision in the FTC vs the North Carolina Dental Board.

17.0 There was no unfinished business to discuss at this time.

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

19.0 At 12:19 p.m., on motion by Mr. Baker and second by Ms. Frost, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's tentative meeting schedule for the remainder of 2015 is July 16, 2015, September 17, 2015, and November 19, 2015 in the 3<sup>rd</sup> Floor Conference Room, 100 North Union Street, Montgomery, Alabama.

Sincerely,

Carolyn Greene  
Executive Secretary  
/cg

**APPROVED:** \_\_\_\_\_  
**Edmond G. Eslava, III, Chairman**