

**MINUTES**  
**ALABAMA REAL ESTATE APPRAISERS BOARD**  
**RSA UNION STREET**  
**SUITE 370**  
**MONTGOMERY, ALABAMA**  
**July 16, 2015**

**MEMBERS PRESENT:**

Mr. Edmond G. Eslava, III (Chairman) arriving at 9:25 a.m.  
Mr. Lew Watson  
Mr. Billy Cotter  
Mr. Richard D. Pettey  
Mr. Robert Butler  
Ms. Patrice McClammy  
Ms. Angie Frost

**MEMBERS ABSENT:**

Mr. Dennis Key (Vice-Chairman)  
Mr. Christopher Baker

**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

**GUESTS PRESENT:**

See attachment

- 1.0 With quorum present, Mr. Lew Watson, acting Chairman, called the meeting to order at 9:21 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the State Capitol Auditorium, 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. The location of the meeting was updated on the Secretary of State's website on July 2, 2015 in accordance with the Alabama Open Meetings Act.
- 2.0 The meeting was opened with prayer by Mr. Pettey followed by the Pledge of Allegiance, led by Mr. Watson.
- 3.0 Members present were, Mr. Edmond G. Eslava, III, Mr. Billy Cotter, Mr. Lew Watson, Mr. Robert Butler, Mr. Richard D. Pettey, Ms. Angie Frost, and Ms. Patrice McClammy. Members absent were Mr. Christopher Baker and Mr. Dennis Key.

Mr. Watson welcomed the guests present and asked the Board Members and staff to introduce themselves. Mr. Watson then asked the guests to introduce themselves.

4.0 On motion by Mr. Butler and second by Ms. McClammy, the regular minutes for May 21, 2015 were approved as written. Motion carried by unanimous vote.

5.0 Ms. Conway informed the Board that there was no Pending Litigation to present.

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

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

7.1 **Trainee Real Property Appraiser applications approved:** Macky Lee Outlaw and Chance W. Wood. **Applications deferred:** None. **Applications denied:** None.

**Trainee Real Property Appraiser Experience Logs for Review: Logs approved:** Michael Bayne Dunaway, Christopher Pettey and David Clark Stewart. **Logs deferred:** Tammie Haddock. **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:** None. **Applications deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** Robert L. Delery (Recip.)(LA), David Ikard, John Kenneth Lewis, Dan Stephen Nestor (Recip.)(GA), Norman Phillip Settles (Recip.)(WY) and Callie Lee Smith (Recip.)(GA). **Applications deferred:** None. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Sean Almeida, Kathryn B. Edmundson (Recip.)(FL), Ronald S. Foster (Recip.)(GA), Matthew King Gottschalk (Recip.)(GA), Russell Benjamin Hardeman (Recip.)(GA), Leamon Roy Holliday (Recip.)(GA), Terry Preston Little, Callen C. Martin (Recip.)(TN), Melvin Richard Poland, II (Recip.)(GA), Randy Wayne Rahlmann (Recip.)(MO), Teddy Wayne Reynolds (Recip.)(AR). **Applications deferred:** None. **Applications denied:** None.

7.6 **Mentor application approved:** Brandon Beard. **Application deferred:** Claud Clark, III. **Applications denied:** None.

8.0 Ms. Frost presented the Finance report and stated that the Board was

75% into Fiscal Year 2015 and 65% into budget expenditures. Ms. Frost stated that there were no negative trends that could not be reconciled at this time.

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

Mrs. Brooks presented a Budget Overview for Board information. The Board will discuss this information at the September Board meeting.

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

### **APPRAISAL INSTITUTE – CHICAGO CHAPTER**

#### **New Application:**

(CE) Online Appraising Convenience Stores – 7 Hours – Online  
(Instructor: Robert Bainbridge)  
**Both Course and Instructor Approved**

(CE) Online Thinking Outside the Form – 4 Hours – Online  
(Instructor: Alan Simmons)  
**Both Course and Instructor Approved**

### **MCKISSOCK, LP**

#### **New Applications:**

(CE) Managing Appraiser Liability – 6 Hours – Online  
(Instructor: Dan Bradley)  
**Both Course and Instructor Approved**

(CE) Water, Water Everywhere – 3 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) Nuts and Bolts of Condo Appraisal– 3 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) Florida Appraisal Oddities – 3 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

10.0 The Board reviewed the following disciplinary reports.

**AB 12-56** The Board approved a Consent Settlement Order on May 21, 2015 where the David Wayne Sumners, G00805, agreed to a public reprimand and a \$6,000 administrative fine. This Consent Settlement Order agreement was reached in settlement of an administrative hearing. The violations in the report are: Licensee failed to exercise reasonable diligence to discover the true nature of the terms he used in analysis and applied the wrong label to the terms, indicating a higher level of credibility to intended users of the appraisal. Licensee did not attempt to talk with the legal owner of the property to verify if an option to purchase existed or whether the property was listed for sale. Licensee failed to recognize that he inferred a higher degree of credibility to the analysis by the use of an EXTRAORDINARY ASSUMPTION instead of a HYPOTHETICAL CONDITION. Licensee communicated a misleading report by incorrectly applying the label of "Extraordinary Assumption" instead of correctly labeling certain matters as "Hypothetical Condition". If Licensee had exercised due diligence in completing his research for the assignment, he would have discovered or should have discovered that the basis of the "Hypothetical Condition" was false. Experienced users of appraisal services assign different levels of credibility to information used in analysis based on the label used by the appraiser. Licensee based his analysis on an unsigned lease that provided for rents significantly in excess of the local market and on a sales contract between parties with no ownership interest in the property and ignoring an active and long term listing of the subject for a much lower price than the terms of the unsigned sales contract between parties with no ownership interest. Licensee ignored comparable sales and rent data in closer proximity to the subject that indicated a lower rental rate in the immediate market than the unsigned lease indicated. Licensee used the un-signed lease rental rate in his analysis to arrive at the value.

Licensee selected sales that were not comparable to the subject in terms of size, age, location and utility and were located in other market areas and made unsupported adjustments to these comparable sales without market support indicating that Licensee did not understand or correctly employ the Sales Comparison Approach and the Income Approach to value. Licensee relied on an un-signed lease and the word of the lessee that lessee had a lease/purchase agreement for the property but failed to obtain a copy of said agreement or verify the existence of said agreement. Licensee then classified the existence of the lease as an Extraordinary Assumption instead of a Hypothetical Condition when additional research would have shown the appropriate label to apply to the terms. The use of an Extraordinary Assumption did not result in a credible analysis. Licensee had no market data or other documentation to support or justify adjustments made to comparables utilized in the Sales Comparison Approach to value. Licensee failed to verify the comparable sales utilized with a party to the transaction, licensee only used data sources as a verification source.

Licensee failed to obtain and analyze historical expense data for the subject property nor did the Licensee collect comparable market data for operating expenses in this market area. Licensee failed to research and report a current listing for the subject at the time of the assignment at a much lower price than the proposed sales contract. Licensee utilized unsigned lease and sales contracts that were between parties that had no ownership interest in the property. One party claimed to have a lease/purchase agreement but licensee never obtained a copy of the supposed agreement but relied heavily on the un-signed lease and sales contract to formulate the opinion of value. **SCOPE OF WORK RULE, Scope of Work Acceptability, COMPETENCY RULE, Standards Rule 1-1(a), 1-1(b), 1-2(f), 1-4(a), 1-4(c)(i), 1-4(c)(ii), 1-4(c)(iv), 1-5(a), 2-1(a), USPAP, 2008-2009 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 2 new complaints were received since the May 2015 Board meeting, 4 complaints were dismissed, and 1 complaints was settled, leaving a total of 24 open complaints.

- 11.0 There were no Probable Cause reports to review.
- 12.0 The Board reviewed the Consent Settlement Order on **AB-13-56**. On motion by Mr. Pettey and second by Mr. Cotter, the Board voted to defer this Consent Settlement Order to the September Board meeting. Motion carried by unanimous vote.
- The Board reviewed the Consent Settlement Order on **AB-12-53**. On motion by Mr. Pettey and second by Mr. Cotter, the Board voted to defer this Consent Settlement Order to the September Board meeting. Motion carried by unanimous vote.
- 13.0 The following reciprocal licenses were issued since the May Board meeting: Robert L. Delery ('R' LA), Kathryn B. Edmundson ('G' FL), Ronald S. Foster ('G' GA), Matthew King Gottschalk ('G' GA), Russell Benjamin Hardeman ('G' GA), Leamon Roy Holliday ('G' GA), Callen C. Martin ('G' TN), Dan Stephen Nestor ('R' GA), Melvin Richard Poland, II ('G' GA), Randy Wayne Rahlmann ('G' MO), Teddy Wayne Reynolds ('G' AR), Norman Phillip Settles ('R' WY), and Callie Lee Smith ('R' 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.
- 16.0 At 9:46 a.m., Ms. Conway opened the Public Hearing on proposed Administrative Rule changes to 780-X-17-.09, Appraiser Qualification, 780-X-17-.11, Appraiser Competency, 780-X-01-.17, Study of Customary and Reasonable Fee for Appraisals of Alabama Properties and 780-X-17-.18, Business Practices. Ms. Conway explained the proposed rule changes and the public hearing process.

Ms. Conway discussed written comments that the Board received from ServiceLink regarding the proposed changes and informed the Board that ServiceLink was the only response. The Board discussed the reasons for the changes and that other states had made similar changes. Ms. Conway stated that the proposed changes will be published on the Board's website and that the comment period will remain open until August 4, 2015. There was no one present who wished to speak on the proposed rule changes. Ms. Conway closed the public hearing at 9:57 a.m.

Ms. Conway discussed the proposed rule change to 780-X-14-.02, Informal Disciplinary Procedure. She explained the current practice of the Board, with regard to disclosing the name of the complainant to the respondent, and the reason for the proposed change. After Board discussion, on motion by Mr. Butler and second by Ms. Frost, the Board voted to release complaints with the complainant's identity to the licensee upon the licensee's request. Ms. Conway explained that this change would not be in place until the proposed rule change goes into effect.

On motion by Ms. McClammy and second by Mr. Cotter, the Board voted to adopt the change to 780-X-14-.02 as written and to file it with Legislative Reference Services. Ms. Conway stated that there will be a public hearing on the proposed changes in September.

Ms. Conway explained the Experience Log Review process to the attendees.

Ms. Conway discussed an objection to the Governor's appointment of two Board members and allegations of wrong doing by the Board in connection with those Board appointments. She included the Request for Informal Ethics Opinion that she has submitted to Mr. Hugh Evans, General Counsel of the Alabama Ethics Commission.

Mrs. Brooks discussed, at Mr. Butler's request, ordering Board member business cards. She asked the Board members to let her know if they were interested.

Mr. Eslava discussed the work session held by the Board members on June 26, 2015.

Mr. Eslava discussed a request from Sizemore & Sizemore for a waiver of the requirement that a Mentor Mr. Jack Fillingham and his Trainee, Mr. Michael Heatherly make joint inspections of properties. Mr. Fillingham addressed the Board and explained Mr. Heatherly's experience. Mrs. Brooks informed the Board that waivers have been granted to Sizemore & Sizemore in the past in similar situations and that requests are taken on a case by case basis. On motion by Mr. Watson and second by Ms. Frost, the Board voted to grant the request. Motion carried by unanimous vote.

Mr. Eslava discussed a letter from the Board to State Personnel

requesting a pay increase for Mrs. Lisa Brooks. On motion by Ms. Frost and second by Ms. McClammy, the Board voted to approve this pay increase. Motion carried by unanimous vote.

17.0 Mrs. Brooks discussed an email from Mr. Joe Batrich regarding appraisal reviews being published on the internet rather than filing a complaint with the Board. Addressing this issue is not a function of the Board and Mrs. Brooks will respond to Mr. Batrich.

18.0 Ms. Frost discussed 34-27A-3B.-02. She stated that appraisers who have received temporary permits from Alabama are not aware of the regulation and therefore do not include the language required by the Statute in their appraisals. Ms. Frost asked if the requirement could be removed. Ms. Conway explained that 34-27A-3B.-02 is in the Law and any change would have to go through the Legislature.

Mr. Pettey asked that an appraiser's disciplinary history be sent to Board members for use in consideration of Mentor applications. Mrs. Brooks will add this item to the September Board meeting agenda.

19.0 At 11:03 p.m., on motion by Mr. Watson and second by Mr. Butler, 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 September 17, 2015, in the Capitol Auditorium, 100 North Union Street, Montgomery, Alabama 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**