

BEFORE THE STATE OF ALABAMA REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF:)
)
LEON GILBERT NELSON, JR.) DISCIPLINARY ACTION NO.
) AB-10-0013
ALABAMA LICENSE NO. R00981)

CONSENT SETTLEMENT ORDER

The Licensee, Leon Gilbert Nelson, Jr., Alabama License No. R00981, practicing as a Certified Residential Real Property Appraiser in the State of Alabama (hereinafter "Licensee") and the Alabama Real Estate Appraisers Board (hereinafter "Board") hereby settle and resolve the violations of §§34-27A-1, et seq., Code of Alabama, 1975 and the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP"), 2006 Edition, in Licensee's appraisal dated March 16, 2007, of the real property and improvements identified as 9920 Dominion Drive South, Mobile, AL 36695.

These violations are more specifically as follows:

2006 USPAP

ETHICS RULE

Conduct

Licensee communicated a misleading/non credible appraisal. The appraisal report was prepared and developed with a Sales Comparison Analysis Approach and Cost Approach that were not credible. The opinion of market value was based on non credible data, which rendered the



opinion of market value non credible/misleading. The appraisal report contained a series of errors that affected the overall credibility of the results of the appraisal report.

SCOPE OF WORK RULE

Scope of Work Acceptability

Licensee excluded sales within the subdivision/development where the Subject is located without stating a reason for the exclusion. Licensee analyzed sales from superior priced subdivisions/developments as comparable sales, without an analysis of the differences in elements of comparison between the Subject and the sales used as comparables. Licensee failed to disclose in the appraisal report any analysis or lack thereof for sales located within the subdivision/development where the Subject is located.

Standards Rule 1-1(b)

Licensee used and analyzed comparable sales from superior subdivisions/developments without analyzing the differences in elements of comparison between the Subject and the sales used as comparables within the appraisal report. Licensee failed to report or analyze sales available from within the subdivision/ development where the Subject is located in the Sales Comparison Analysis Approach of the appraisal report. Licensee failed to state a reason for the exclusion. Licensee failed to state and analyze the access/amenities to the common area, lake and picnic area of the subdivision/development where the Subject is located in the Cost Approach and Sales Comparison Analysis Approach. Licensee failed to state the analysis (market adjustment) for the difference in the actual age of the Subject and comparables or state a reason for the lack of an

adjustment for actual age in the Sales Comparison Analysis Approach. Licensee failed to report or analyze that the Subject is located within the flight tracks of the regional airport. Licensee made a +\$12,500 adjustment for the absence of a fence and pool for Comparable #1 in the Sales Comparison Analysis and according to the stated data source (MLS), the Comparable is fenced and has a pool. The adjustment for the pool and fence was not supported. Licensee failed to report and analyze a lake view, water frontage and private pier for Comparable #3 in the Sales Comparison Analysis. Licensee adjusted Comparable #3 for a fence, which was not supported by the stated data source (MLS). Licensee failed to state the analysis of the market condition adjustment between the list price and the estimated selling price of Comparable #4 (pending sale that did not close) in the Sales Comparison Analysis or state a reason for the lack of a market condition adjustment. Licensee failed to state and analyze, Comparable #4 in the Sales Comparison Analysis, having a view of the lake or state a reason for the lack of an adjustment. Licensee excluded sales from the subdivision/development where the Subject is located and used sales from superior subdivisions/developments as comparables. Licensee failed to state an analysis of the different elements of comparison between the Subject and comparable sales used within the appraisal report. Licensee failed to recognize and state accurate information and adjust accordingly in the Sales Comparison Analysis Approach. Licensee failed to recognize, state and analyze the amenities of the lake, common area and picnic area associated with the Subject property in the appraisal report. Licensee failed to recognize, state and analyze the Subject property being located within the flight tracks of the regional airport.

Standards Rule 1-2(e)

Licensee failed to identify that the characteristics/elements of the Subject property included access to amenities such as to the lake, common area and picnic area of the subdivision/development.

Standards Rule 1-2(h)

Licensee's appraisal assignment failed to have credible results. Licensee analyzed sales from superior priced subdivisions/developments as comparable sales in the Sales Comparison Analysis Approach. Licensee failed to state the analysis of the different elements of comparison between the Subject and the comparable sales used within the appraisal report. Licensee failed to disclose, within the appraisal report, the exclusion and analysis or lack of an analysis of the sales located within the subdivision/development where the Subject is located.

Standards Rule 1-4(a)

Licensee stated and analyzed sales as comparables, from superior priced subdivisions/developments, without analyzing the different elements of comparison between the Subject and the sales used as comparables. Licensee failed to state and analyze, the sales available from the subdivision/ development where the Subject is located or state an accurate reason for the exclusion of the sales within the appraisal report. Licensee failed to recognize, state and analyze the Subject being located within the flight tracks of the regional airport. Licensee failed to state the analysis of the actual age difference between the Subject and comparables used or state a reason for the lack of an adjustment. Licensee stated and analyzed the lack of a pool and fence (+\$12,500 adjustment) for Comparable #1. According to the stated

data source (MLS), the Comparable is fenced with a pool. Licensee made an adjustment that is not supported for the lack of a pool and fence. Licensee failed to state and analyze, Comparable #3 having a lake view, water frontage and a private pier. Licensee adjusted for the Comparable having a fence, which was not supported by the stated data source (MLS). Licensee failed to state the analysis of the market condition adjustment between the list price and the estimated selling price of Comparable #4 (pending sale that did not close) or state a reason for the lack of an adjustment within the appraisal report. Licensee failed to state and analyze, Comparable #4 view of the lake or state a reason for the lack of an adjustment within the appraisal report.

Standards Rule 1-6(a)

Licensee failed to reconcile the quality and quantity of data available, which was or should have been analyzed within the Sales Comparison Analysis (Approach) and Cost Approach. Licensee failed to recognize the data available and use this data to develop a credible Sales Comparison Analysis (Approach) and Cost Approach. (Licensee failed to use the recognized methods and techniques in developing the approaches to value.)

Standards Rule 2-1(a)

Licensee indicated in the Subject section of the appraisal report, the Subject had not been offered for sale or sold within the twelve months prior to the effective date of the appraisal. The Subject property was offered and sold within the prior twelve months. Licensee stated the Zoning and Zoning Description as SR-1 Single Family, when the Subject is located in an unincorporated area with no zoning. Licensee stated "None" for gutters and downspouts in the Improvements section of the appraisal report, when the home had partial gutters and downspouts. Licensee failed to

accurately state the address of Comparable #1 in the Sales Comparison Analysis and Comparable Photo Addendum. An accurate address would have been obtained by a diligent inspection of the comparable. Licensee stated the city/zip code for the Subject and Comparable #3 as the same city/zip code, when Comparable #3 was located within a different city/zip code. Licensee stated a prior date of sale for the Subject that was not accurate and also stated one amount for the sale price in the grid of prior sale information with a different amount for the sale price in the analysis of the prior sale. Licensee stated the data source for Comparable #4 as MLS Closed, when the comparable was a pending sale. The accurate data source would be MLS Pending or MLS. Licensee stated a date of sale of Comparable #4 as 02/01/2007, when the comparable had not sold. (pending sale) Licensee stated Comparable #4 was located "across the street" to the Subject, when it was located next to the Subject. (adjoining properties) Licensee indicated the research **did not** reveal any prior sales or transfers of the subject property for the three years prior to the effective date of the appraisal and then stated a prior sale in the prior sales history grid. Licensee stated in the appraisal report, USPAP guidelines for comparables sales as being within one mile geographical radius, within 6 months, net adjustment of 15% and gross adjustment of 25%, when these are not USPAP guidelines for the appraisal report prepared, developed and communicated. Licensee, in the Cost Approach, labeled a lump sum figure as "Additional Features (Lump Sum). The Additional features on page 1 of 18 URAR list site improvements and dwelling features within the additional features. Licensee failed to clearly state what features were included in the lump sum figure that were actually dwelling cost and what costs were not included in the lump sum figure (site improvements).

Standards Rule 2-1(b)

Licensee failed to provide information, the subject property sold on June 24, 2006 for \$330,000 and was appraised approximately 9 months later for \$425,000 (3/16/2007) without a reason/justification stated, in the appraisal report, for the \$95,000 increase. Licensee failed to state the neighborhood boundaries of the neighborhood, as stated in the appraisal report. Licensee stated neighborhood boundaries, which included additional neighborhoods outside of the Subject's neighborhood. Licensee failed to provide sufficient information, for the intended user to understand the effective age of an average condition home built in 1996 and appraised in 2007 would have an effective age of 3-5 years. Licensee failed to provide information about the Subject property being located within the flight tracks of the regional airport. Licensee failed to provide the complete list of verification sources in the grid of the Sales Comparison Analysis. Licensee failed to state the complete address of Comparable #2, within the appraisal report. Licensee failed to provide information about the sunroom's square footage being included in the GLA of Comparable #4. Licensee failed to provide information about the lack of an actual age adjustment within the grid of the Sales Comparison Analysis (Approach). Comparable #1 & #3 were less than 1/3 of the Subject's actual age. Comparable #2 was 1/10 of the actual age of the Subject. Licensee failed to state a reason for the lack of an adjustment for the difference in actual age between the Subject and comparables. Licensee stated a comment in the Summary of Sales Comparison Approach, "Comparable 3 previously had an incorrect fence/pool adjustment. The correct \$10,000 adjustment amount is applied to this report." The appraiser did not provide a reason or information, within the appraisal report, to explain why the comment was stated in the summary. Licensee failed to provide sufficient information for the lender/client to replicate the

cost figures and calculations in the Cost Approach. Licensee failed to provide support/information (actual method used) for the opinion of site value used in the Cost Approach. Licensee failed to provide information about the access/amenities to the lake, common and picnic area for the subdivision/development where the Subject is located. Licensee stated in the Certification, "The report complies with the Uniform Standards of Professional Appraisal Practices (USPAP) as adopted by the Appraisal Standards Board of The Appraisal Foundation as of August 9, 1990." Licensee failed to provide information, within the appraisal report, as to how this comment would apply to an appraisal report prepared, developed and communicated in March 2007. Licensee provided a Location Map Addendum of a general area (*25 mile scale*), which did not provide sufficient information to reflect the actual location of the Subject and comparables.

Standards Rule 2-2(b)(vii)

Licensee failed to summarize the exclusion of the sales within the subdivision/development where the Subject is located and failed to state an accurate reason for the exclusion. Licensee analyzed sales from superior priced subdivisions/developments as comparable sales without an analysis of the different elements of comparison between the Subject and the sales used as comparables within the appraisal report. Licensee failed to disclose, within the appraisal report, the analysis or lack thereof for the sales located within the subdivision/development where the Subject is located.

Licensee failed to include the Alabama certification as required by the Alabama Real Estate Appraisers Act. §34-27A-3(b)(2), Code of Alabama, 1975.

The above constitute violations of §34-27A-20(a)(6) and §34-27A-20(a)(9), Code of Alabama, 1975.

Pursuant to §34-27A-5; §34-27A-20; §34-27A-21, §34-27A-22, and §§41-22-1, et. seq. Code of Alabama, 1975 and §780-X-14-.02, Alabama Real Estate Appraisers Board Administrative Code, March 2009 Edition, Licensee and the Board agree to the following:

A. Licensee admits the factual allegations as set out above and further admits that said facts constitute violations of §34-27A-20(a), Code of Alabama, 1975, and USPAP as set out above.

B. Licensee agrees to pay an administrative fine of \$ 500 to the Board within 30 days of the acceptance of this Consent Settlement by the Board. This represents a \$50 fine for each of the 10 USPAP standards and rules violated. For purposes of computing this fine, only one violation of each standard has been assessed.

C. Licensee shall complete a Board approved 15 hour course on Sales Comparison approach with an exam and a 7 hour course on completing Fannie Mae appraisal forms within 6 months of the final execution and acceptance of this Consent Settlement Order. These courses may not be claimed by Licensee as continuing education or as qualifying education for upgrade of his license.

D. The Licensee further agrees that if the conditions set forth in this Consent Settlement Order are not complied with in a timely manner, his license will be suspended without

notice and opportunity for a hearing until such time as compliance is complete. In the event of a suspension pursuant to this provision, notification and publication of the suspension shall be made to the Appraiser Subcommittee and as otherwise provided for in the AREAB Administrative Code, 780-X-14-.07.

E. The Licensee understands that he has the right to a hearing in this matter and hereby freely, knowingly, and voluntarily waives such right and the right to judicial review of these proceedings. The Licensee further understands that disciplinary action is progressive in nature and that this disciplinary action will be considered should any future discipline be warranted. This voluntary agreement shall become effective immediately upon acceptance thereof by the Board. In the event that this Consent Settlement of the violations enumerated herein is not accepted by Licensee, the Board will proceed to take formal action and issue a summons and complaint. The Licensee shall have the right to withdraw any plea of guilt to the violation, if applicable.

F. The Licensee, Leon Gilbert Nelson, understands that this document will be considered a public record entered as a final disposition of disciplinary proceedings presently pending against him, and that this action shall be considered to be and will be recorded as a final order of the Board.

EXECUTED this the 14 day of JANUARY, 2011.

LEON G. NELSON JR
LEON GILBERT NELSON, LICENSEE

SWORN to and subscribed before me this the 14 day of January, 2011.

Drew Coleman
Notary Public
My Commission Expires: 3/6/2014

APPROVED AND ACCEPTED, by the Alabama Real Estate Appraisers Board on the 20
day of January, 2011.

ALABAMA REAL ESTATE
APPRAISERS BOARD

BY:

Lisa Brooks
LISA BROOKS
EXECUTIVE DIRECTOR