

BEFORE THE STATE OF ALABAMA REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF:)
)
SCOTT DANIEL ABERCROMBIE,) DISCIPLINARY ACTION NO.
) AB-13-23
ALABAMA LICENSE NO. R01038)

CONSENT SETTLEMENT ORDER

The Licensee, Scott Daniel Abercrombie, Alabama License No. R01038 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"), 2012-2013 Edition, in Licensee's appraisal dated February 26, 2013, of the real property and improvements identified as Lots 81 and 82, Mildred Ave., Madison, AL 35756.

These violations are more specifically as follows:

2012-2013 USPAP
January 1, 2012 through December 31, 2013



ETHICS RULE

An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.

An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

* * *

Licensee performed an appraisal assignment outside of the appraiser's licensee classification. Licensee also certified to an interior inspection of the Subject property, when no interior inspection was performed and provided a Scope of Work that was not clear and accurate as to the work performed or not performed by each appraiser.

COMPETENCY RULE

An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment.

Being Competent

The appraiser must determine, prior to accepting the assignment, that he or she can perform the assignment competently. Competency requires:

- 1. the ability to properly identify the problem to be addressed; and*
- 2. the knowledge and experience to complete the assignment competently; and*
- 3. recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.*

Licensee performed an appraisal assignment outside of the appraiser's license classification.

Lack of Competency

If the assignment cannot be completed competently, the appraiser must decline or withdraw from the assignment.

Licensee failed to decline or withdraw from the appraisal assignment, when the appraisal assignment could not legally be completed by Licensee.

Scope of Work Acceptability

The scope of work must include the research and analyses that are necessary to develop credible assignment results.

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

The information provided explains an inspection of the subject lot (*unclear if improvements inspected or not*), subdivision and neighborhood. In the Certification, the information provided "I have made a personal inspection of the interior and exterior areas of the property that is the subject of this report, and the exteriors of all properties listed as comparables." According to Licensee, an exterior only inspection was made of the Subject, an exterior inspection of the comparables including an inspection of the neighborhood and no interior inspection of the Subject. In the Supplemental Addendum/Scope of Work section, Licensee said that he performed research and analysis of active listings and pending and closed sales of similar properties to the Subject in the first paragraph. In the second paragraph, Licensee states no sales of subdivision clubhouses with pool were found. According to Licensee's information provided in the second paragraph, the Scope of Work was overstated in the first paragraph due to a lack of closed sales being available for analysis.

STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Standards Rule 1-1(a)

In developing a real property appraisal, an appraiser must:

- (a) *be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;*

* * *

Licensee, in the Market Data Analysis section, used methods and techniques that produced non credible results. Licensee doubled the sale price of the vacant comparable lots to arrive at a sale price of the comparables since the Subject site originally contained two lots. Licensee failed to analyze the difference between the Subject and comparables' characteristics, attributes and amenities. Licensee adjusted for the cost of the improvements to the site by using a cost estimate from the builder/developer that was over two years old subtracting the land acquisition cost from the cost estimate for the adjustment (Cost analyzed, not market analysis). In the Income Approach, Licensee analyzed HOA dues to develop an indicated value by the Income Approach of the clubhouse with a pool. The clubhouse with a pool did not generate an income and the homeowners' association dues do not reflect an income from the clubhouse or pool.

Licensee failed to research and provide the prior three year sales history of the Subject property, which would have revealed a prior sale and an accurate legal description for the Subject property.

Standards Rule 1-1(c)

In developing a real property appraisal, an appraiser must:

- (c) *not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an*

appraisal, in the aggregate affects the credibility of those results.

Licensee failed to use due diligence and due care when preparing and developing an appraisal report. Licensee's appraisal report contained a series of errors which affected the overall credibility of the results of the appraisal report as communicated. Licensee, in the Neighborhood/Present Land Use Percentage section, analyzed a 10% present land use without providing information as to what the 10% land use was that was analyzed. Licensee, in the Neighborhood/Present Land Use Percentage section, analyzed a total of 95% present land use. Licensee failed to provide information, for the lack of an analysis of the other 5% present land use ($100\% - 95\% = 5\%$) that was not analyzed. Licensee, in the Reconciliation section, provided a comment of the Income Approach and Cost Approach not being utilized when the Income Approach was developed making the comment inaccurate. Licensee, in the Supplemental Addendum/Neighborhood Description and Neighborhood Market Condition sections, due to clone/template errors provided the name of the adjoining city, within the comments, rather than the city where the subject neighborhood was actually located.

Standards Rule 1-2(e)

In developing a real property appraisal, an appraiser must:

* * *

- (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
 - (i) its location and physical, legal, and economic attributes;*
 - (ii) the real property interest to be valued;*

- (iii) *any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;*
- (iv) *any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and*
- (v) *whether the subject property is a fractional interest, physical segment, or partial holding;*

* * *

Licensee failed to identify the characteristics and attributes of the property such as amenities, easements, special use property, personal property/trade fixtures, covenants, restrictions, etc.

Standards Rule 1-4(a)

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

- (a) *When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.*

* * *

Licensee failed to collect, verify and analyze the necessary information for a credible assignment results. Licensee appraised a clubhouse with a pool, which was owned by a homeowners association within a development. Licensee developed a Market Data Analysis and failed to analyze the complete characteristics and attributes of the lots (*Subject & comparables*) along with analyzing outdated data for the cost of the improvements located on the Subject site. (*Licensee analyzed an estimate of site value, then added the 2010 cost from the builder/developer cost estimate less the land acquisition cost to develop the Market Data Analysis in a 2013 appraisal.*)

Licensee analyzed the estimated HOA dues to develop the Income Approach for the real estate (clubhouse with pool). The estimated HOA dues were not income from the clubhouse with a pool but estimated HOA dues paid to the HOA. Licensee analyzed a sale price of the vacant lots by doubling the sale price of the lots because the Subject originally contained two lots before being combined and the comparable sales were single lots. Licensee failed to analyze the difference between the Subject and comparable from other developments with different characteristics, attributes and amenities. Licensee analyzed the Subject's site improvements, including personal property/trade fixtures, from a builder/developer's cost estimate and not the contributing market value of the improvements.

Standards Rule 1-4(c)

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

* * *

- (c) *When an income approach is necessary for credible assignment results, an appraiser must:*
- (i) *analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;*
 - (ii) *analyze such comparable operating expense data as are available to estimate the operating expenses of the property;*
 - (iii) *analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and*
 - (iv) *base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.*

* * *

Licensee analyzed the estimated HOA dues to be paid by the homeowners to the homeowners association to develop the Income Approach for the clubhouse with a pool. The HOA dues were not income from the clubhouse with a pool, but operating expenses for the HOA. Licensee's analysis was non credible.

Standards Rule 1-4(g)

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

* * *

(g) *When personal property, trade fixtures, or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-real property items.*

Licensee failed to analyze the personal property that was included within the builder/developer's cost estimate such as club house furnishings.

Standards Rule 1-5(b)

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

* * *

(b) *analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.*

Licensee failed to analyze a prior sale, which occurred within 3 years of the effective date of the appraisal. (Sale date: April 7, 2011, Effective date of appraisal: February 26, 2013)

STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each

analysis, opinion, and conclusion in a manner that is not misleading.

Standards Rule 2-1(a)

Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

* * *

Licensee, in the Subject/Occupant section, provided information the property was vacant when the property was owned and occupied by the homeowners association for the development. Licensee, in the Reconciliation section, provided a comment of the Income Approach and Cost Approach not being utilized when the Income Approach was developed making the comment inaccurate. Licensee, in the Certification section, provided a certification of an exterior and interior inspection of the Subject property when an exterior only inspection was performed. *(No interior inspection)*

Standards Rule 2-1(b)

Each written or oral real property appraisal report must:

* * *

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

* * *

Licensee, within the appraisal report, failed to provide the exposure time of the Subject property as required. Licensee, in the Neighborhood/Present Land Use Percentage section, analyzed a 10% present land use without providing information as to what the 10% land use was that was analyzed. Licensee, in the Neighborhood/Present Land Use Percentage section, analyzed a total

of 95% present land use. Licensee failed to provide information, for the lack of an analysis of the other 5% present land use (100% - 95% = 5%) that was not analyzed. Licensee, in the Site/Dimensions section, failed to provide the dimensions of the site area. Licensee failed to provide information to explain the reason for the exclusion of the Cost Approach.

Standard Rule 2-2(b)(v)

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

* * *

(b) *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:*

* * *

(v) *state the type and definition of value and cite the source of the definition;*

* * *

Licensee's definition of market value contained a component of a reasonable time be allowed for exposure in the open market. Licensee failed to provide information, within the appraisal report, as to what a reasonable exposure time would be.

Standards Rule 2-2(b)(vii)

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

* * *

(b) *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:*

* * *

(vii) *summarize the scope of work used to develop the appraisal;*

* * *

Licensee's scope of work provided within the appraisal report was overstated and not clear and accurate.

Standards Rule 2-2(b)(viii)

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

* * *

(b) *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:*

* * *

(viii) *summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;*

* * *

Licensee failed to explain the reason for the exclusion of the Cost Approach.

Standards Rule 2-2(b)(ix)

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

* * *

(b) *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:*

* * *

- (ix) *state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;*

* * *

Licensee stated different highest & best uses without support/rationale for the opinions.

The above constitute violations of §34-27A-20(a)(6), 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 that the factual allegations as set out above, if proven, could be found to constitute violations of §34-27A-20(a), Code of Alabama, 1975, and USPAP as set out above. Licensee chooses to enter into this Consent Settlement Agreement for the purpose of resolving this action presently pending before the Board and does not admit that the facts as set out can be proven.

B. Licensee agrees to pay an administrative fine of \$2,125 to the Board within 30 days of the acceptance of this Consent Settlement by the Board. This represents a \$125 fine for each of the 17 USPAP Rules and Standards violated. For purposes of computing this fine, only one violation of each standard has been assessed.

C. Licensee shall complete a Board approved fifteen (15) hour USPAP course that includes the exam within 30 days of the final execution and acceptance of this Consent

Settlement Order. Said course may not be claimed by Licensee as continuing education or as qualifying education for upgrade of his license classification.

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.

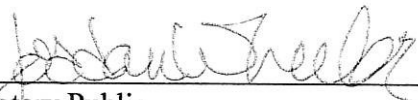
F. The Licensee, Scott Daniel Abercrombie, understands that this document will be considered a public record entered as a final disposition of disciplinary proceedings presently pending against him and that this action shall be considered to be and will be recorded as a final order of the Board.

EXECUTED this the 13th day of November, 2014.


SCOTT DANIEL ABERCROMBIE, LICENSEE

SWORN to and subscribed before me this the 13th day of November, 2014.




Notary Public
My Commission Expires: 6/4/18

APPROVED AND ACCEPTED, by the Alabama Real Estate Appraisers Board on the 20th
day of November, 2014.

ALABAMA REAL ESTATE
APPRAISERS BOARD

BY:


LISA BROOKS
EXECUTIVE DIRECTOR