

BEFORE THE STATE OF ALABAMA REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF:	)	
	)	
DAVID H. BURNS	)	DISCIPLINARY ACTION NO.
	)	AB-2021-0044
ALABAMA LICENSE NO. G00090	)	

**CONSENT SETTLEMENT ORDER**

The Licensee, David H. Burns, Alabama License No. G00090, practicing as a Certified General Real Property Appraiser in the State of Alabama (hereinafter "Licensee") and the Alabama Real Estate Appraisers Board (hereinafter "Board") hereby settle and resolve the alleged violations of §§34-27A-1, et seq., Code of Alabama, 1975 and the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP"), 2020-2021 Edition, in Licensee's appraisal dated November 15, 2021 as corrected on November 23, 2021, of the real property and improvements identified as 300 Regal Street, Winfield, AL 35594.

These violations alleged are more specifically as follows:

**2020-2021 USPAP**

**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.*

Revised March 6, 2024

### **CONDUCT:**

*An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.*

*An appraiser must not perform an assignment in a grossly negligent manner.*

It is alleged that a projected business income from a proposed bed and breakfast business that would include the value of personal property, trade fixtures, and intangible item was used for the income approach and the result was reported as the value of the real property. It is alleged that there was no analysis of the effect on value of the non-real property assets as required by SR 1-4(g).

### **STANDARDS RULE 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): GENERAL REPORTING REQUIREMENTS**

*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*

It is alleged that the utilization of an income approach using business income from a proposed bed and breakfast business without disclosing that the resulting value opinion was for the real property along with personal property, trade fixtures, or in-tangible items result in an alleged misleading report.

## STANDARDS RULE 2-2, CONTENT OF A REAL PROPERTY APPRAISAL REPORT

*Each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.*

*An appraiser may use any other label in addition to, but not in place of, the labels set forth in this Standards Rule for the type of report provided. The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP.*

*The report content and level of information requirements in this Standards Rule are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements.*

### STANDARDS RULE 2-2(a)(viii): CONTENT OF A REAL PROPERTY APPRAISAL REPORT

*(a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:*

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

It is alleged that the scope of work did not identify that using a bed and breakfast business income in the income approach would result in a value that included personal property, trade fixtures or in-tangible items in addition to the real property.

If found to be true, the above alleged charges could 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 denies that he has violated USPAP or any regulation or statute of the Board and denies that the allegations as set out above constitute violations of §34-27A-20(a), Code of Alabama, 1975, and USPAP.

B. Licensee desires to enter into a settlement agreement with the Board only for the purpose of resolving this pending disciplinary action. This settlement agreement and/or the payment of the administrative fine contemplated herein does not constitute an admission of responsibility for the alleged violations enumerated herein.

C. Licensee agrees to pay an administrative fine of \$1500 to the Board within 30 days of the acceptance of this Consent Settlement by the Board. This represents a \$500 fine for each of the 3 alleged USPAP Rules and Standard violations. For purposes of computing this fine, only one violation of each standard has been assessed.

D. The Licensee further agrees that if the administrative fine contemplated herein is not remitted to the Board in a timely manner, his license may 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. T This voluntary agreement shall become effective immediately upon acceptance thereof by the Board.

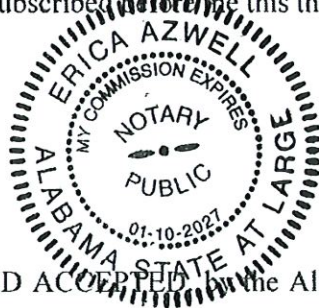
F. The Licensee, David H. Burns, understands that this document will be considered a public record entered as a final disposition of disciplinary proceedings presently pending in this case and that this action shall be considered to be and will be recorded as a final order of the Board.

G. Nothing herein shall be construed to constitute a finding by the Board of violation of USPAP or any regulation or statute of the Board.

EXECUTED this the 12<sup>th</sup> day of March, 2024.

David H. Burns  
DAVID H. BURNS. Licensee

SWORN to and subscribed ~~before me~~ this the 12<sup>th</sup> day of March, 2024.



Erica Azwell  
Notary Public  
My Commission Expires: 01-10-2027

APPROVED AND ACCEPTED by the Alabama Real Estate Appraisers Board on the 14<sup>th</sup> day of March, 2024.

ALABAMA REAL ESTATE  
APPRAISERS BOARD

BY:

Lisa Brooks  
LISA BROOKS

Revised March 6, 2024

EXECUTIVE DIRECTOR

Revised March 6, 2024