

BEFORE THE STATE OF ALABAMA REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF:)
)
EVERETT S. BROOKS, JR.)
)
ALABAMA LICENSE NO. G00442)

DISCIPLINARY ACTION NO.)
AB-17-08)



CONSENT SETTLEMENT ORDER

The Licensee, Everett S. Brooks, Jr., Alabama License No. G00442, 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 violations of §§34-27A-1, et seq., Code of Alabama, 1975 and the Uniform Standards of Professional Appraisal Practice (hereinafter "USPAP"), 2016-2017 Edition, in Licensee's appraisal dated May 11, 2017, of the real property and improvements identified as 501 Betsy Ross Lane, Florence, Alabama.

These violations are more specifically as follows:

USPAP 2016-2017 Edition

January 1, 2016 through December 31, 2017

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.

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.*

Licensee performed an appraisal assignment in a grossly negligent manner:

1. Licensee certified to personally preparing all conclusions and opinions about the real estate that was set forth in the appraisal report. Licensee failed to state the reliance on significant real property appraisal assistance from Angel Lanier in the performance of the appraisal and failed to disclose the tasks performed by Angel Lanier.
2. Licensee's workfile did not include a "true copy" (*replica*) of all written appraisal reports communicated to the Client along with all data, information and documentation necessary to support the appraiser's opinions and conclusions and show compliance with USPAP. The failure was willful and with knowledge of the requirements of the Record Keeping Rule.

RECORD KEEPING RULE

An appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile must be in existence prior to the issuance of any report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

The workfile must include:

- *true copies of all written reports, documented on any type of media.*

- *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other data, information, and documentation; and*

Licensee's workfile:

1. Failed to provide a "true copy" (*replica*) of all appraisal reports transmitted to the Client, at the time of the appraisal assignment. Licensee's workfile, as provided to AREAB, failed to provide a copy of the appraisal report transmitted with a date of signature and report of 05/11/2017 with additional commentary dated 5/17/2017 within the appraisal report.
2. Failed to provide support of the opinion and conclusions of the effective age; Licensee analyzed a single (one) comparable sale to develop the effective age and used a sale price of \$134,175 when the actual sale price was \$140,000; as a result, the workfile did not support the opinion and conclusions of the effective age analyzed within the appraisal report *Effective age of 20 years for a home reported to be ~41 years actual age.*

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

In developing a real property appraisal, an appraiser must:

Standards Rule 1-1(b)

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

I. Licensee:

- A. Analyzed a +3,000 adjustment in the Sales Comparison Approach/Comparable #1/Garage-Carport section, when according to Licensee, there should have been a "\$0" adjustment analyzed.
- B. Analyzed the construction cost of the front porch, with a roof and step-up concrete floor, and the building cost of the rear deck, with a shed roof and wooden floor, together at the same per square foot cost in the Cost Approach.
- C. Analyzed the construction cost of the attached carport and the construction cost of the detached garage (*site improvement*) together, at the same per square foot cost in the Cost Approach.
- D. In the Subject Photo Addendum section, provided photos taken by Angel Lanier and withheld the source of the photos.
- E. In the Comparable Photo Addendum section, provided MLS photos without providing the actual data source of the photos.
- F. In the Appraiser's Certification #1, certified to at a minimum, developing and reporting the appraisal in accordance with the scope of work requirements stated in the appraisal report. Some of the scope of work requirements, as stated on the first page of the

preprinted section of the URAR under Scope of Work, were not performed. The Scope of Work provides for:

1. Perform a complete visual inspection of the interior and exterior areas of the subject property. The visual inspection was performed by Angel Lanier and not by Licensee.
2. Inspect the neighborhood. The fieldwork was performed by Angel Lanier and not by Licensee.

G. In the Appraiser's Certification #2, certified to, an interior and exterior inspection of the subject property, when the inspections were performed by Angel Lanier.

H. In the Appraiser's Certification #15, certified that he had not knowingly withheld any significant information and to the best of Licensee's knowledge, all statements and information in the appraisal report are true and correct. Licensee failed to provide significant information, the appraisal assignment was assigned to Licensee with the fieldwork (inspections, photos, measurement, etc.) being performed by Angel Lanier. Licensee performed the analyses for the Sales Comparison Approach and Cost Approach along with keying information into the appraisal report and addendum.

2. In the Appraiser's Certification #19, certified to, if Licensee relied on significant real property appraisal assistance from any individual in the performance of the appraisal or preparation of the appraisal report, the individual is named and disclosure of the specific tasks performed were provided within the appraisal report. Licensee represented the appraisal report was prepared without significant appraisal assistance, when significant appraisal assistance was provided by Angel Lanier.

Standards Rule 1-4

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

Standards Rule 1-4(a)

(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.*

A. Licensee, in Comparable #1/Condition section, analyzed the cost to cure for the superior condition. The appraisal report nor workfile supported the \$8,000 adjustment being developed by appropriate methods and techniques with supported data. *(No analyses, no figures & calculations with a data source, no support the market would be willing to pay a cost to cure in a condition adjustment.)*

B. Licensee, in Comparable #1/Garage-Carport section, analyzed a + \$3,000 adjustment. According to Licensee, the amount should have been provided and analyzed as "0" rather than the + \$3,000.

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

Each written or oral real property appraisal report must:

Standards Rule 2-1(a)

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

- A. Licensee, in the Subject Photo Addendum section, provided photos taken by Angel Lanier. The photos were not taken by Licensee, as evidence of an exterior and interior inspection of the subject property. Inspection was performed by another appraiser without the assistance being noted in the appraisal report.
- B. Licensee, in the Comparable Photo Addendum sections, provided MLS photos without providing the actual source of the photos. The photos provided were MLS photos and not the original photos taken by Licensee.
- C. Licensee, in the Appraiser's Certification #1, certified to at a minimum, developing and reporting the appraisal in accordance with the scope of work requirements stated in the appraisal report. Some of the scope of work requirements stated in the first page of the preprinted section of the URAR under Scope of Work were not performed.
 - 1. Perform a complete visual inspection of the interior and exterior areas of the subject property. The visual inspection was performed by Angel Lanier and not by Licensee.
 - 2. Inspect the neighborhood. The fieldwork was performed by Angel Lanier and not by Licensee.
- D. Licensee, in the Appraiser's Certification #2, certified to an interior and exterior inspection of the subject property, when the inspections were performed by Angel Lanier.

- E. Licensee, in the Appraiser's Certification #15, certified to not knowingly withholding any significant information and to the best of Licensee's knowledge, all statements and information in the appraisal report are true and correct. Licensee failed to provide significant information, the appraisal assignment was assigned to Licensee with the fieldwork (inspections, photos, measurement, etc.) being performed by Angel Lanier. Licensee performed the analyses for the Sales Comparison Approach and the Cost Approach along with keying information into the appraisal report and addendum.
- F. Licensee, in the Appraiser's Certification #19, certified to, if Licensee relied on significant real property appraisal assistance from any individual in the performance of the appraisal or preparation of the appraisal report, the individual is named and disclosure of the specific tasks performed were provided within the appraisal report. Licensee represented the appraisal report was prepared without significant appraisal assistance, when significant appraisal assistance was provided by Angel Lanier.

Standards Rule 2-1(b)

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

- A. Licensee, in the URAR/Improvements section, provided the condition of the building materials as being in average condition with commentary of no updates in the prior 15 years. Additional commentary was provided, the property was found to be in average condition and maintained well at the time of the inspection. Licensee failed to provide sufficient information to explain, how a home built in 1976 (41 years actual age) would have an effective age of 20 years.

- B. Licensee, in the URAR/Improvements/Car Storage section, indicated detached for the carport and garage in the checkbox for detached. Licensee failed to provide commentary to explain the garage was detached and the carport was attached. Licensee failed to provide an indication in the checkbox or commentary of the carport being attached.
- C. Licensee, in the URAR/Sales Comparison Approach/Comparable #4 and Comparable #5/Sales or Financing section, provided information of arms-length with \$0 concession for the listings, without sufficient information being provided to explain why the information was provided for a listing.
- D. Licensee, in the Cost Approach/Dwelling Cost section, developed a dwelling cost of \$81.25 from the online cost service. The dwelling cost was then reduced to \$80.00 per square foot, because the subject was located outside of the city where regulatory/permit cost was lower. Licensee failed to provide data/ information to explain the figures/calculations analyzed for the reduction in per square foot dwelling cost, where the lender/client could replicate the cost figures and calculations. ($\$81.25 \times ?? = \80.00)
- E. Licensee, in the Cost Approach section, provided the opinion of site value was developed from the research of latest sales or through allocation. Licensee failed to provide the actual method and technique employed in the development of the opinion of site value. *(The actual method & technique employed to develop the opinion of site value was not provided. Research of latest sales is not a method and technique but a task performed. Licensee used the term "or", which made it unclear if either was performed.)*

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 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.

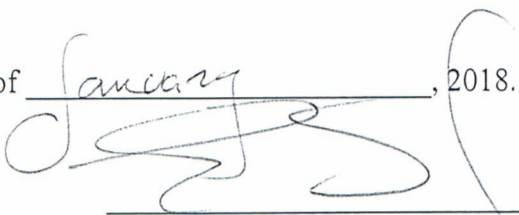
B. Licensee agrees to pay an administrative fine of \$3000.00 to the Board within 30 days of the acceptance of this Consent Settlement by the Board. This represents a \$500.00 fine for each of the six (6) USPAP standards and rules. For purposes of computing this fine, only one violation of each standard or rule has been assessed.

C. 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.

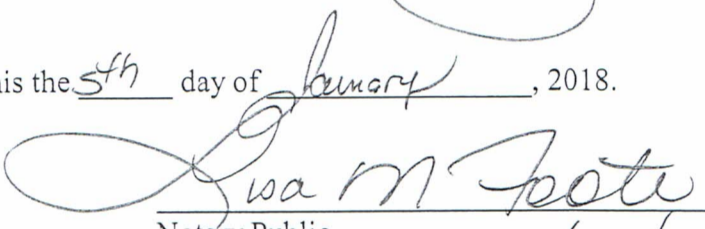
D. The Licensee understands that he has the right to a hearing in this matter and hereby freely, knowingly, and voluntarily waives such right and the right to judicial review of these proceedings. The Licensee further understands that disciplinary action is progressive in nature and that this disciplinary 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.

E. The Licensee, Everett S. Brooks, Jr., 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 5th day of January, 2018.


EVERETT S. BROOKS, JR., LICENSEE

SWORN to and subscribed before me this the 5th day of January, 2018.


Notary Public
My Commission Expires: 7/24/2019

APPROVED AND ACCEPTED, by the Alabama Real Estate Appraisers Board on the 15th
day of March, 2018.

ALABAMA REAL ESTATE
APPRAISERS BOARD

BY:

Lisa Brooks
LISA BROOKS
EXECUTIVE DIRECTOR