



# APPRAISER REPORT

## AMC Registration in North Carolina

Effective January 1, 2011, it became mandatory for Appraisal Management Companies doing business in North Carolina to register with the Appraisal Board. The AMC must state its North Carolina registration number on every order for an appraisal of a property located in North Carolina.

The Board has an online database that you can access to see if an AMC is registered. Please make sure that the Board has your email address so that we can send you important information about AMC registration and the appraiser's responsibilities.

Here are some commonly asked questions and answers about AMC registration:

*What if the person ordering the appraisal tells me they don't have to register in North Carolina?*

Contact the Board office to ask whether the company has to register.

*Does a bank-owned AMC have to register in North Carolina?*

Yes, it does. The Dodd-Frank Bill exempts bank-owned AMCs from federal registration, but North Carolina requires them to be registered here. The AMCs recognize this and most have registered.

*Will an appraisal firm have to register as an AMC if it uses only 1099 independently contracted appraisers?*

Although there can be a fine line between an appraisal firm and an AMC, it is not the intent of the AMC law to require appraisal firms to register as AMCs. If you are not sure, you should contact the Board for guidance.

*How does AMC registration affect appraisers?*

**Appraisers are required to make sure the AMC they are working for is registered with the North Carolina Appraisal Board. Appraisers may be disciplined if they work for an unregistered AMC.** You must obtain the AMC's North Carolina registration number for every AMC. If the AMC does not have a number or tries to tell you that they are licensed in another state, do

not accept the assignment. Contact the Board office for further guidance.

*How will an AMC know what kind of appraisals I can do, and in what areas I am geographically competent to appraise?*

Before an appraiser is added to a panel, the AMC will require the appraiser to declare in writing the appraiser's areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform. This information has to be updated at least annually. If you add to your areas of competence, you should contact the AMC to amend your information.

*What if the AMC asks for more information after I transmit the report?*

An Appraisal Management Company may request that you consider additional appropriate property information, provide further detail, substantiation, or explanation for your value conclusion, or to correct errors in an appraisal report. Requests to consider additional information must be made within 30 days of the date the appraiser transmits the report. Other information can be requested at any time.

*Continued on page 2*

## STAFF UPDATE

H. Eugene Jordan has been employed by the Board as a new investigator. Gene has been in the general real estate profession for over 35 years as a real estate broker with Jordan & Hicks Realty, Inc. and as a Certified General and Residential appraiser with Gene Jordan Appraisal Services. Also, Gene is a Certified USPAP instructor and an associate instructor with the Appraisal Institute. He is a native of Warren County and graduated from North Carolina Central University with a Bachelor's degree in Chemistry. Gene is currently a member of the Triangle Board of Realtors and holds the SRA designation with the Appraisal Institute. He is married to Gwendolyn and they have two daughters, Yolonda and Ivy.

# APPRAISER REPORT

Continued from page 1

**Published** as a service to appraisers to promote a better understanding of the Law, Rules and Regulations, and proficiency in ethical appraisal practice. The articles published herein shall not be reprinted or reproduced in any other publication, without specific reference being made to their original publication in the **North Carolina Appraisal Board Appraisereport**.

## NORTH CAROLINA APPRAISAL BOARD

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Beverly E. Perdue, Governor

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Mindy M. Sealy, *Administrative Assistant*

## APPRAISER COUNT

(As of January 31, 2011)

Trainees	508
Licensed Residential	176
Certified Residential	2185
Certified General	1215
Total Number	4084

## APPRAISAL MANAGEMENT COMPANIES

(As of January 31, 2011)

Total Registered 91

## APPRAISER EXAMINATION RESULTS

June 2010 – December 2010

Examination	Total	Passed	Failed
Trainee	57	39	18
Certified Residential	27	17	10
Certified General	15	8	7

Examinations are administered by a national testing service. To apply for the examination, please submit an application which may be downloaded from the Appraisal Board's website at <http://www.ncappraisalboard.org/forms/ApplicationFormLicensure.pdf>

### What if I am not paid?

Fees must be paid within 30 days after the date the appraisal is transmitted to the client, except where the appraiser did not comply with the terms of the engagement or agreed-upon scope of work. If an AMC decides that it will not pay you for an appraisal, it must notify you in writing of the reason for nonpayment within 30 days of the date you transmit the report. This notice has to be sent by certified mail and must include the reason for nonpayment. The AMC also has to notify you of any dispute resolution process they have through which you may dispute the reason for non-payment.

### What if I am removed from an AMC's list?

If an appraisal management company decides to remove an appraiser from its list of qualified appraisers, it must notify you in writing of the reason for removal. Again, this notice has to be sent by certified mail and must include a description of the reason or the removal. The AMC also has to notify you of any dispute resolution process they have through which you may dispute the removal.

### What kind of complaints will the Board accept?

The Board will accept complaints only for events that occurred on or after January 1, 2011. For example, if you did an appraisal in September 2010 and you have not yet been paid, the Board will not accept that complaint.

Complaints based on untimely payment or non-payment of a fee, removal from a fee panel or coercion will be accepted and investigated. Refer to the list of prohibited practices in Section 2-7 of the law, which can be found here.

<http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S829v7.pdf>

The Board will not accept complaints based solely on the amount of the fee an AMC is offering to pay for an assignment.

### How do I file a complaint?

The forms are available on the Board's website in the Forms area under "Appraisal Management Company Forms".

### May I file an anonymous complaint?

Yes, you may. The Board, however, will screen these complaints carefully and will only open them if they show evidence of significant wrongdoing on their face. If you do not supply the Board with your contact information, you will not be notified as to the Board's decision in the matter.

**A reminder:** A certified general appraiser may no longer use the term "certified residential/general appraiser".

When state licensing of appraisers began in North Carolina in 1991, certified general appraisers were allowed to use the designation "certified general real estate appraiser" or the designation "certified residential/general real estate appraiser". This was done as clients often did not understand that a general appraiser can appraise any category of real estate, including residential. In 2005, the Appraisal Board amended its rule to eliminate the use of the "residential/general" designation.

**Certified general appraisers must only use the designation "certified general real estate appraiser".** Any other designation is inaccurate and misleading. If your seal includes the incorrect term, please notify the Board so we can send you a new seal approval form.

# \*\*\*CONTINUING EDUCATION REMINDER\*\*\*

All appraisers and trainees must have 28 hours of continuing education credit in order to renew their licenses in 2011, including the 7-hour National USPAP Update course. All continuing education must be taken between June 1, 2009 and May 31, 2011.

- If you took the 15-hour National USPAP course to upgrade your license, you may receive continuing education credit, but you will still have to take the 7-hour National USPAP update course in order to renew your registration, license or certificate.
- Appraisal Board rules allow you to take up to 14 hours of the 28-hour requirement as on-line courses.
- You can take a pre-certification course for continuing education, but if you use it for continuing education, you cannot use it to upgrade.
- No continuing education credit was carried over from the 2007-2009 education cycle into the 2009-2011 cycle.
- If you reside in another state and are currently licensed by the appraiser certification board of that state, you may satisfy the continuing education requirement by providing a current letter of good standing from your resident state showing that you have met all continuing education requirements in that state.

Trainees who initially register on or after January 1, 2011 will not have to obtain continuing education to renew in 2011.

To view a current list of continuing education courses approved by the Board, please visit our website at [http://www.ncappraisalboard.org/education/contin\\_edu.htm](http://www.ncappraisalboard.org/education/contin_edu.htm)

## UPDATES: EXPERIENCE

### ► New Log Form

The Board has a new experience log. Experience credit has been converted from a point system to an hour based system. Applicants applying to upgrade after January 1, 2011 may convert the points earned prior to December 31, 2010 to hours based on 8.3 hours per point. Beginning January 1, 2011, all experience earned must be documented on the new log. The log is available on the Board's website. For complete details on the new experience log, please refer to the *Required Appraisal Experience* section in the Information Booklet on the website.

### ► No More Verification Form

The Verification of Supervised Appraisal Experience Reporting Form is no longer required.

### ► Documenting Assistance in the Appraisal

Appraisers and trainees are reminded that appraisal reports must document who provides assistance in the

preparation of the appraisal and the extent of that assistance. This information can appear in an addendum, as long as the addendum is incorporated into the appraisal report *and sent to the client*. If both parties sign the certification, detailed documentation of the extent of the assistance provided is not required by USPAP to be in the report.

It is not sufficient to state only that "John Doe, Trainee #9999, provided significant professional assistance." The disclosure should state the actual tasks performed. For example: "John Doe, Trainee #9999, measured the subject property, selected closed sales from the subdivision that were similar to the subject, made adjustments to those sales, performed the cost approach and drafted the appraisal report."

### ► Remember:

If the Board receives an appraisal report in support of experience credit that is not properly signed or does not contain the appropriate information regarding the assistance provided by the trainee or appraiser, experience credit will be denied.

# HAVE YOU BEEN SERVED WITH A SUBPOENA?

Some appraisers put clauses in their appraisals stating that they will not testify in court unless prior arrangements have been made. Unfortunately, this does not prevent someone from issuing a subpoena to get a copy of the appraisal and/or work file, or even to require you to appear in court or at a deposition.

The Confidentiality Section of the Ethics Rule of USPAP requires an appraiser to protect the confidential nature of the appraiser-client relationship. There are five exceptions to confidentiality; the client, anyone authorized by the client, state regulatory agencies, third parties as may be authorized by due process of law, and a duly authorized professional peer review committee. FAQ 51 in the 2010-2011 Edition of USPAP notes that USPAP does not identify or define "due process of law", but states that a subpoena or court order might clearly constitute due process.

*A valid subpoena is considered "due process of law" in North Carolina, and therefore trumps the confidentiality of the appraiser-client relationship under USPAP. Thus, unless a*

legally valid privilege or other objection is found by the court to apply, if you are served with a valid subpoena, you have an obligation to comply with the instructions in the subpoena with regard to showing up in court and possibly giving testimony as a fact witness or producing documents.

If you receive a subpoena, you should immediately contact your client to let them know that you received it. Also, if you prepared the appraisal for one side in litigation, you should contact the attorney for that party. In some instances, the attorney can ask the judge to "quash" or dismiss the subpoena, or limit its terms. If you did not prepare the appraisal for litigation, you may want to call the attorney who arranged for the subpoena and find out what it is the attorney really wants. You also may want to make sure that the attorney understands that you are bound by the Confidentiality Section of the Ethics rule of USPAP and thus cannot discuss the appraisal with him.

Whatever you do, don't ignore the subpoena. Any obligations you have under a subpoena are limited to factual witness

testimony in the setting of the court or a deposition. This means that you do not discuss the appraisal with anyone, except your client or authorized users, unless you are actually in court or at a deposition. "Factual witness testimony" means basically you can be asked what your prior opinion of value was in the appraisal report, other things you reported, what you saw, etc. You should not give a new opinion of value or estimate what the property might be worth now or how the market may have affected the property, etc. If you are asked to do this, you should explain that to do so would be a new appraisal and you would have to comply with USPAP in developing and reporting your testimony. Of course, if a judge orders you to answer a question, you should do so to the best of your ability.

The staff at the Appraisal Board cannot act as your lawyer or give you legal advice. If you have errors and omission insurance, you may want to call them to determine whether a potential claims situation exists or for their assistance in obtaining legal advice on how to handle a subpoena.

## EMAIL ADDRESS

Please be sure the Board has your current email address on file. In order to do so, please login under the licensee login section on our website at [www.ncappraisalboard.org](http://www.ncappraisalboard.org). Current licensees may login by entering their User ID and password. The User ID is the same as an individuals' license number and will start with the letter "A" or "T". The password is the licensees' last four digits of their social security number.

# Broker Price Opinions

The Appraisers Act (N.C.G.S. § 93E) requires that anyone performing an appraisal in North Carolina must be licensed by the North Carolina Appraisal Board as an appraiser. The law specifically exempts a comparative market analysis (CMA) when it is performed by a licensed real estate broker for a prospective or actual brokerage client or when it involves real property in an employee relocation program, provided that person does not represent himself or herself as being state-licensed or state-certified as a real estate appraiser. A comparative market analysis is defined in the law as the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker.

Real estate brokers are sometimes approached by lenders, REO (“real estate owned”) asset managers and others, and asked to perform a “broker price opinion” for a fee. Although a broker’s price opinion (BPO) is not defined in the statute, it is an opinion of the value of real property and consequently an appraisal under the law, unless exempt as a CMA. A broker who is not also a licensed or certified appraiser may provide a BPO only under the circumstances allowed for CMAs: a broker may receive a fee for performing a CMA or BPO *as long as the CMA or BPO is performed for a present or prospective seller or buyer brokerage client on the property which is the subject of a present or prospective brokerage agreement*. There must be a genuinely reasonable likelihood that the broker will enter into a brokerage agreement as a seller’s or buyer’s agent for the property that is the subject of the BPO for this exception to apply.

Consider the following scenarios:

1. A broker performs a BPO for a fee for a homeowner who is considering selling his property, but who does not want to commit to a brokerage relationship at this time. This is acceptable under the Appraisers Act as the broker has a reasonable possibility of getting a listing from doing the BPO.
2. A lender is considering whether to foreclose on a property. The lender asks three brokers to each perform a BPO, and let the brokers know that one of the three will receive the listing if and when the property is foreclosed. This also is acceptable.
3. A bank asks a broker to do a BPO. There is no mention with regard to the purpose of the BPO, and no mention of whether the broker might get a listing

from doing the BPO. This is unacceptable. Under these circumstances, there is no reason for the broker to believe that he or she may obtain a listing on the property.

4. A broker is asked to do a BPO for a loan modification. There is no possibility of a listing on that property, but the broker believes that if he or she performs the BPO, the broker might get a listing from the client on another property at some point in the future. This also is unacceptable.

In evaluating whether there exists a reasonable prospect of a listing, the controlling factors will include the express language of the assignment or contract, *the nature or purpose of the transaction for which the BPO is to be performed*, the relationship of the potential client to the property and his or her role in the transaction, and the history of the broker and potential client. It is therefore important that brokers maintain records of any engagement letters or agency agreements describing the broker’s services, and have a clear understanding of the reason the BPO is being performed. Remember, a real estate broker who is not a licensed appraiser may only perform a BPO for a prospective or actual brokerage client or when it involves real property in an employee relocation program.

Employee relocation programs have frequently been a source of confusion. Relocation companies often contact one or more real estate brokers to perform a CMA on a property which the company intends to purchase as part of an employee relocation plan. Typically, the company will then choose one of the brokers who prepared a CMA to list the property. In this situation, the relocation company may be considered a prospective brokerage client, and performing a CMA under those circumstances, for a fee, will not violate the Appraisers Act.

Anyone who obtains a copy of a BPO that appears to have been done in violation of the Appraisers Act may send a complaint to the North Carolina Appraisal Board and to the North Carolina Real Estate Commission. Both agencies will open and investigate the complaint and take whatever action is deemed necessary.

**Note:** If a broker performs a BPO, he or she cannot state that the conclusion is “market value”. The conclusion must be stated in terms of a probable sales price, and should state that it is not an appraisal.

*An article on Broker Price Opinions appeared in the August 2010 edition of the Appraisereport. In cooperation with the North Carolina Real Estate Commission, the article has been revised to include some examples of situations where Broker Price Opinions are requested. This revised article is being run this month in both the NCAB and NCREC newsletters.*

## Mission Statement

The mission of the North Carolina Appraisal Board is to protect consumers of real estate services provided by its licensees by assuring that these licensees are sufficiently trained and tested to assure competency and independent judgment. In addition, the Board will protect the public interest by enforcing state law and Appraisal Board rules to assure that its licensees act in accordance with professional standards and ethics.

## USPAP Q&A

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.

### Qualifying Education

**Question:** I was pursuing a General Certification credential and completed a 30-hour qualifying education course on “General Appraiser Market Analysis and Highest and Best Use” approved by my state. I decided to pursue a Residential Certification instead, which requires 15 Hours of “Residential Market Analysis and Highest and Best Use.” Can I use the General Appraiser course to count as my qualifying education in this category?

**Response:** The *Real Property Appraiser Qualification Criteria* sets forth module names of the Required Core Curriculum areas which must be covered in a candidate’s qualifying education for each appraiser classification sought. Furthermore, Guide Note 1 of the criteria provides guidance on subtopic areas that should be covered under each of the modules of the Required Core Curriculum, in order to prepare the candidate to pass the National Uniform Licensing and Certification examination for the specific credential. However, coverage of all of the subtopics under each module is not required in order for a course to be approved by your state appraiser regulatory agency as qualifying education given the commonality between the subtopics covered in the respective General and Residential Highest and Best Use courses, under the Criteria, a state could approve the General course toward the Required Core Curriculum for the Residential classification. However, be sure to check with the specific state appraiser regulatory agency in the jurisdiction in which you are seeking a credential to verify their specific requirements and course approvals, which could be more specific.

### Continuing Education

**Question:** I am certified in multiple states. If I attend and successfully complete a continuing education course in one state, can I use it to count toward my recertification in another state?

**Response:** In the event the course, provider and delivery mechanism (classroom or distance education) are approved in both states, then each state may grant you CE credit for taking the one course. Each state has a unique method of approving courses. Thus, be sure to check with the specific state appraiser regulatory agency in the jurisdictions in which you are seeking to recertify your credentials to verify their requirements.

### Qualifying Experience

**Question 1:** Is there an assumption that a typical residential appraisal takes “X” hours to develop and report? If someone submits a log to the state and says they have acquired 3,000 hours of experience by doing ten “URAR” form reports, would they be believed? Or, is there a range that makes sense, like between 4 and 12 hours for a “typical” assignment?

**Response:** The *Real Property Appraiser Qualification Criteria* does not specify the amount of experience hours which may be claimed per assignment. The state appraiser regulatory agency in the jurisdiction where you are seeking a credential is responsible for examining your experience log and must be satisfied there is a reasonable relationship between the amount of time you claim to have spent on an assignment and your description of work performed. Some states have established typical hours for specific types of appraisal assignment types, which they use as a benchmark to identify potentially excessive experience claims. Be sure to check with your supervisory appraiser and your state appraiser regulatory agency to make sure you comply with the hourly requirements when claiming experience.

**Question 2:** I am employed by a county appraisal district where we value properties for ad valorem tax purposes. My job requirements include valuing real property using the sales comparison approach, performing on-site

inspections of properties, using mass appraisal tools to assign real property values, analyzing sales on an annual basis, etc. Our state requires that my appraisal experience for state licensure or certification must comply with the Appraiser Qualifications Board criteria for acceptable experience. Does my position as a Residential Appraiser at the appraisal district meet the AQB criteria for acceptable experience?

**Response:** Just by serving in a municipal appraisal position, you are not automatically granted credit. Per the *Real Property Appraiser Qualification Criteria* the quantitative experience requirements must be satisfied by time spent on the appraisal process: analyzing factors that affect value; defining the problem; gathering and analyzing data; applying the appropriate analysis and methodology; and arriving at an opinion and correctly reporting the opinion in compliance with USPAP. Based upon the minimum criteria set forth by the AQB, a state could, after review of your work log and work samples, grant you experience credit for work completed in ad valorem, mass appraisal assignments. However, check with the specific state appraiser regulatory agency in the jurisdiction in which you are seeking a credential to verify their requirements, which may be more restrictive.

**Question 3:** I am presently a Certified Residential appraiser and I am pursuing a change to Certified General. I realize a Trainee who applies to become Certified General is required to accumulate 3,000 hours of experience (with at least 1,500 being non-residential). However, does this mean that a Certified Residential appraiser would only have to accumulate 1,500 hours of commercial experience to satisfy the experience requirement?

**Response:** The *Real Property Appraiser Qualification Criteria* requires 3,000 hours of experience accumulated during no fewer than 30 months, of which 1,500 hours must be non-residential. Under the *Criteria*, experience gained in pursuit of a credential is not exclusive to that specific credential. Thus, based upon the minimum criteria set forth by the AQB, a state appraiser regulatory agency could, after review, count the experience earned toward your Certified Residential credential along with additional experience earned toward the 3,000-hour requirement for the Certified General credential. However, be sure to check with the specific state appraiser regulatory agency in the jurisdiction in which you are seeking a credential to verify their requirements, which may be more restrictive.

**Question 4:** I have been a Licensed Real Estate agent for several years and also an appraiser Trainee for over one year. I have a supervisor for whom I do appraisals and I also get paid by a bank to do Broker Price Opinions (BPOs) that require very similar information as an appraisal (including providing six comps). I act as a completely unbiased person doing these BPO's and have no interest in the properties. Can these BPOs be counted on my appraisal experience log?

**Response:** If the BPOs do not comply with USPAP, regardless of the level of detail or the scope of work performed, they are ineligible for experience credit. (Refer to the 2010-11 USPAP document for further information on not misrepresenting your role when acting as an appraiser versus a broker/sales person/mortgage broker.) If, however, the development and reporting of the BPO complies with USPAP, and your supervisory appraiser provides direct supervision over your preparation thereof, reviews and signs your work product, it is possible a state appraiser regulatory agency might count these as appraisal experience. However, be sure to check with the specific state appraiser regulatory agency in the jurisdiction in which you are seeking a credential to verify their requirements, which may be more restrictive.

**Question 5:** I am a licensed forester and an Appraiser Trainee. My supervisory appraiser is a forester and a Certified General Appraiser. As a part of my company's forestry practice, I often perform timber inventory and valuation reports (timber cruises) to estimate the value of timber. Can I utilize my timber cruise experience to satisfy the 3,000 hours of required real property appraisal experience toward earning a Certified General credential?

**Response:** Solely developing a timber inventory and valuation report does not qualify for real property valuation experience. However, if you develop a timber inventory and valuation report and appropriately utilize this information in an appraisal of real property, it may qualify for real property valuation experience provided the appraisal complies with USPAP. Furthermore, as with other types of appraisal assignments, an individual providing significant real property appraisal assistance in the appraisal may receive credit for these assignments, provided the individual is duly acknowledged in the certification of the report as having provided significant real property appraisal assistance, and the description of their assistance is included in the appraisal report. Be sure to check with the specific state appraiser regulatory agency in the jurisdiction in which you are seeking a credential to verify their requirements, which may be more restrictive.

# Disciplinary Actions:

*The following is a summary of recent disciplinary actions taken by the Appraisal Board. This is only a summary; for brevity, some of the facts and conclusions may have not been included. Because these are summaries only, and because each case is unique, these summaries should not be relied on as precedent as to how similar cases may be handled. In many cases appraisers are required to complete additional education as part of a consent order. Please check with the Board office if you have questions regarding an individual's current license status.*

## **Emily L. Adams A4592 (Wilmington)**

By consent, the Board accepted the voluntary surrender of Ms. Adams' residential certification effective December 31, 2010.

## **Robert D. Brewer A3025 (Greensboro)**

By consent, the Board accepted the voluntary surrender of Mr. Brewer's residential certification effective January 1, 2011.

## **Clinton B. Darden A5932 (Charlotte)**

By consent, the Board accepted the voluntary surrender of Mr. Darden's right to renew his residential certification effective November 9, 2010.

## **Kenneth J. Donnelly A6897 (Charlotte)**

By consent, the Board suspended Mr. Donnelly's residential certification for a period of one year effective December 1, 2010. The first three months of the suspension are active and the remainder is stayed until July 1, 2011. If Mr. Donnelly completes a sales comparison class, a class in Mastering Unique and Complex Properties, and the 15 hour National USPAP course (with examination) by July 1, 2011, the remainder of the suspension shall be inactive. In addition, Mr. Donnelly must take and pass the state residential certification examination by July 1, 2011 or the remainder of the suspension will be active. There were two cases against Mr. Donnelly. In one case, he performed an appraisal of a property located in Charlotte, North Carolina in January 2009, finding an appraised value of \$900,000. The subject property is a 2 story, 12 year old condominium. The subject is one of two attached condominium units located on a corner lot with each unit fronting on different streets. Only one of the sales used in the sales comparison approach was comparable to the property. That property sold for

\$635,000. The other two sales were new 2 story townhouse-style condominium units located in a multi-unit complex that each sold for over \$1,500,000. These sales were located in a superior area and were of superior construction, and inadequate adjustments were made for the differences. There were other sales that could have been used to value the subject. In the second case, Mr. Donnelly appraised a property located in Belmont, North Carolina effective April 20, 2007 for \$375,000. The subject property is a one story, brick and wood sided home with 3221 square feet located in a traditional city subdivision. Mr. Donnelly had the wrong owner listed on the report. All of the comparable sales are outside the subject's immediate area. The houses were similar in size to the subject but were newer and in superior areas, and minimal adjustments were made. There were other sales that could have been used to value the subject. Had these properties been analyzed in the report, they would have indicated a lower value for the subject. Mr. Donnelly failed to keep an adequate work file for this assignment.

## **Swayn G. Hamlet A239 (Fayetteville)**

By consent, the Board issued a reprimand to Mr. Hamlet effective December 1, 2010. He also agrees to complete the 15 hour National USPAP course, including passing the examination. Mr. Hamlet performed an appraisal of a property located in Fayetteville, North Carolina. The subject was improved with several three and four unit apartment buildings, with a total of about 56 units. The DOT proposed to take 3.86 acres of the 8.40 acre subject to construct a portion of a highway. The Respondent testified at trial that the value of the property in the before condition was \$2,900,000. He considered the taking a "total take". Mr. Hamlet's client engaged him to testify as an investor, not an appraiser. During the trial, the Respondent identified himself as a certified general appraiser. He

prepared a written document he termed an "attorney work product" that developed a value based on the income produced by the property. Both his testimony and the written document valued the subject property in the before and after condition. Although Mr. Hamlet was engaged to testify as an investor, he performed what has been determined to be a written appraisal and gave an oral appraisal report. The scope of work analysis that was performed between Mr. Hamlet and his client was not fully developed. The "work product" as written did not fully comply with the reporting requirements of USPAP. His oral testimony in court also did not fully comply with USPAP reporting requirements, although the work file did contain a signed certification.

## **Barry V. Hilton A5019 (Marshville)**

By consent, the Board suspended Mr. Hilton's residential certification for a period of one year effective December 1, 2010. The first three months of the suspension are active and the remainder is stayed until July 1, 2011. If Mr. Hilton completes the 15 hour National USPAP course and the Residential Sales Comparison and Income Approach class (with examination) by July 1, 2011, the remainder of the suspension shall be inactive. There were two cases against Mr. Hilton. In the first case, Mr. Hilton performed an appraisal of a property located in Belmont, North Carolina. He valued the property at \$570,000 as of February 27, 2009. The property was a custom built brick dwelling with 3639 square feet located on a 4.51-acre lot. It is located in a mixed use area where the predominant improvements were manufactured homes and small ranch-style homes. Comparable sales with similar improvements and site size were limited. Mr. Hilton used 4 closed sales from gated and lakefront developments and made inadequate adjustments for amenities and location. In the second case, Mr. Hilton appraised a property locate in Charlotte, North Carolina. He

valued the home at \$138,000 effective October 24, 2007. The subject is a one story, brick sided single family dwelling. Mr. Hilton stated that the subject contained 1480 square feet when it actually contained 1409 heated square feet and an additional 41 square feet in an unfinished storage room. He used three closed sales in his report. One sale had a detached garage, pool and other features that were not mentioned or adjusted for. All sales were superior to the subject and inadequate adjustments were made for the differences. There were other sales located in the subject's immediate area that would have led to a lower opinion of value. Mr. Hilton did not maintain an appropriate work file for this assignment.

### **Tori M. Humphrey A4507 (Ocean Isle)**

By consent, the Board suspended Ms. Humphrey's residential certification for a period of one year effective August 1, 2010. The first month of the suspension is active and the remainder is stayed until March 1, 2011. If Ms. Humphrey completes a course in residential market analysis and highest and best use and a course in residential site valuation and the cost approach, including passing the examinations in these courses, the remainder of the suspension will be inactive. Ms. Humphrey performed an appraisal of a property located in Bolivia, North Carolina in December 2008, finding a value of \$2,000,000 effective June 27, 2008. The subject is a 208.69 acre tract of vacant land with frontage on a state road, located in a rural area. A developer who purchased an adjacent tract from the property owner had an option to purchase the subject tract for \$24,000 an acre, or about \$5,000,000, since 2006. The report stated that the subject had a private road, curb and gutter and street-lights, which it did not. Ms. Humphrey used sales that were not comparable to the subject property. Two of the sales and the one listing used in the appraisal were each less than 12 acres, with adjustments of about \$1,500,000 for size. The third sale had 166 acres plus 5 rental properties with frontage on an ocean highway. This sale adjusted to \$4,600,780. There were other sales available that should have been used in

the appraisal. Had they been used, the appraised value would have been higher.

### **B. Derek Parker A4185 (Smithfield)**

By consent, the Board suspended Mr. Parker's residential certification for a period of three months. The suspension is stayed until April 1, 2011. If Mr. Parker completes a class in appraising manufactured housing and the 15 hour National USPAP class by that date, the suspension shall be inactive. Mr. Parker appraised two properties located in Kenansville, North Carolina in February 2008. Both properties were proposed manufactured homes. One property appraised at \$115,000 and the other at \$119,500. He used the same comparable sales in both reports. Two of the sales appear to be land-home packages and were not arm's length transactions, thus they should not have been used in the appraisals. In one appraisal, the transfer of the subject within the past year was not noted. The distances from the subject to the sales were incorrect.

### **Henry H. Shavitz A2279 (High Point)**

By consent, the Board suspended Mr. Shavitz's residential certification for a period of one year effective January 1, 2011. The first month of the suspension is active and the remainder will be stayed until June 1, 2011. If Mr. Shavitz completes the 15 hour National USPAP course with exam and a course in highest and best use before June 1, 2011, the remainder of the suspension shall be inactive. Mr. Shavitz also agrees that he will no longer perform any commercial appraisal, condemnation appraisals or any appraisals for litigation purposes. He further agrees that he will not appear as an expert witness for court or administrative agency testimony related to a real estate appraisal or to the value of identified property, except if he receives a proper subpoena for appraisal work performed prior to the effective date of this order. He will perform appraisals only of single family residential properties. Mr. Shavitz appraised a property located in Davie County, North Carolina in June 30, 2009 with an effective date of September 1, 2006. The subject property is a 33 acre tract of vacant land. The

purpose of the assignment was to determine the value of the taking of 8.467 acres of land in connection with a road widening project. Although Mr. Shavitz was deposed during the litigation, he did not testify in court. The report was prepared in a restricted use format. There is no highest and best use analysis in the report or the work file. The report indicates that the highest and best use would be for "outparcel" development, such as a motel site, fuel/convenience site, and other retail/service related endeavors. There is no public sewer to the subject, and the availability or probability of public sewer for the subject property is an extraordinary assumption that was not mentioned in the report. Mr. Shavitz used the sales comparison approach to determine just compensation. The sales he selected ranged in size from 1.07 acres to 1.65 acres. He compared the 33 acre subject tract to these small tracts and then applied the comparison to the whole. These properties are single use commercial sites and are occupied by one tenant or owner. Mr. Shavitz did not comply with USPAP Standards Rules 1 and 2 in performing this appraisal.

### **Kathy W. Smith A3049 (Hickory)**

By consent, the Board suspended Ms. Smith's residential certification for a period of two years effective November 1, 2010. The first year of the suspension is active. If Ms. Smith completes a course in mortgage fraud and a course in sales comparison by August 31, 2011, the remainder of the suspension will be inactive. There were two cases against Ms. Smith. In the first case, she performed two appraisals of properties located in Lenoir, North Carolina performed in 2007 and 2008. These were both manufactured homes. The second case involves twenty doublewide manufactured or modular home properties that were appraised in 2005 to 2008. The subject properties were located in several different counties. For one county, Ms. Smith relied on appropriate sales from the local MLS. In other counties, she routinely appraises properties for the dealer in that area and had a large database of property sales there. She relied on HUD closing statements provided by an attorney for

many of her sales. Ms. Smith appraised some of the comparables subsequently used in her appraisal reports. Many of these were land-home packages. She then used these sales as comparables. Ms. Smith used these sales as comparables without clearly labeling them as land home-packages and making appropriate adjustments. Her signed certifications stated that land-home packages were not used as comparables in the appraisal reports. Ms. Smith relied on faulty data provided to her by an interested party and failed to verify that information, resulting in inappropriate sales being used as comparables and value opinions that were not credible.

**Charles B. Stone A2033 (Greenville, SC)**

By consent, the Board issued a reprimand to Mr. Stone effective September 1, 2010. He also agreed to take a course in North Carolina Appraisal Board rules by January 1, 2011. Mr. Stone performed an appraisal of a property located in Transylvania County, North Carolina in January 2009, finding a value of \$2,060,000. Mr. Stone allowed an unlicensed person to assist him on the appraisal. This person, who was registered as an apprentice in South Carolina, did not have a temporary practice permit to work in this state. Mr. Stone thought that his North Carolina certification covered himself and his apprentice while working in North Carolina. Mr. Stone also failed to apply his seal to the report.

**R. Dale Summers A4322 (Statesville)**

By consent, the Board suspended Mr. Summers' residential certification for a period of one month effective October 1, 2011. The suspension is stayed until January 1, 2011. If Mr. Summers completes the Appraisal Board's trainee supervision course and a class in appraiser liability by that date, the suspension shall be inactive. Mr. Summers and a trainee under his supervision appraised a property located in Charlotte, North Carolina in February 2008, finding a value of \$102,000. The subject property is a 24-year-old frame dwelling containing 1,035 square feet. It is located on a .3467 acre tract in a residential subdivision. The trainee was the only one who inspected the subject property. Mr. Summers did not perform either an interior or exterior inspection. Mr. Summers signed the appraisal report and inadvertently checked that he had inspected the property when he did not do so.

**Marilyn M. Woods A6739 (Greenville, SC)**

By consent, the Board voted to accept the following: Ms. Woods' certification is currently lapsed. In order to renew her certification, she must complete a course in residential report writing and the 15 hour National USPAP class with exam, in addition to fulfilling her 28 hour continuing education requirement. She may renew her certification once renewal materials

are mailed in May 2011. If she does not renew her certification by June 30, 2011, her certification will expire and she will have the option to apply for certification in conformity with Board rules. Ms. Woods performed 4 appraisals of vacant land located in Cullowhee, North Carolina in October and November of 2004. Her estimated values for the lots ranged from \$160,000 to \$210,000. The lots are located in a subdivision of a mixed-use development, and involve properties around a half acre in size. The development was under construction at the time of the appraisal, and was to have several amenities, such as a retail village center, equestrian center, golf course, walking paths and bike trails, a private fishing reserve, river rafting, mountain hiking, scenic pocket parks, and a lake. None of the amenities were ever completed. Although the amenities were not in place on the effective date of the report, Ms. Woods appraised the subject properties as though they were completed. She did state that the appraisal was performed subject to an extraordinary assumption that all subdivision improvements and infrastructures would be completed as proposed. Ms. Woods used the same three comparable sales. Each of these comparable sales was from the subject's subdivision and reflected the same market exposure as the subject. Ms. Woods did not analyze or compare these sales with sales from competing subdivisions in the area.

**2011 Board Meeting Dates**

January – No meeting	May 10	September 13
February 15	June 14	October – No meeting
March 15	July – No meeting	November 8
April – No meeting	August 9	December 13

All meetings are conducted at the North Carolina Appraisal Board building located at 5830 Six Forks Road, Raleigh.