



ARIZONA BOARD OF APPRAISAL

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MINUTES REGULAR BOARD MEETING Wednesday, March 16, 2011 9:04 AM

Call to Order and Roll Call

Regular Board meeting called to order by Les Abrams, Chairman.

Board members Present at Roll Call:

Les Abrams
Debbie Rudd
Cynthia Henry
Myra Jefferson
~~James Heaslet~~
Michael Petrus
Mike Trueba
Kevin Yeanoplos

Staff Attendance:

Dan Pietropaulo – Executive Director
Jeanne Galvin – Assistant Attorney General
Amanda Benally – Staff
Rebecca Loar – Staff

Pledge Allegiance to the Flag of the United States of America

Approval of Minutes

Cynthia Henry made a motion to approve the February minutes. The motion was seconded by Michael Petrus and passed, Myra Jefferson recused herself.

Call to the Public

A call to the public was made with no responses.

Review and Action concerning 3220 Bruce R. Berkson

Respondent appeared. Staff summary was read. Complaint Alleges, appraiser gave an inflated value for the subject appraisal report. Respondent Replies, there is no basis of fact in this complaint. There admittedly was no predetermined value, or violation of any standards or professional practices. There was discussion between the respondent and board members regarding issues about sending in a revised appraisal after finding better comps. Debbie Rudd wanted to send this to investigation and Michael Petrus felt that the respondent had corrected the mistake and therefore no investigation was warranted. Michael Petrus made the motion that the Board find no violations and dismiss this complaint. Cynthia Henry seconded the motion. Debbie Rudd voted no. The motion passed.

Review and Action concerning 2839 Ronald E. Cole

Respondent appeared. Debbie Rudd made the motion to terminate respondent's probation. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3204 Victoria S. Van Klaveren

Respondent appeared. Staff summary was read. Complaint Alleges, for inappropriate comparable selection from a superior location and lack of adjustments. Respondent Replies, the subject's property's valuation is fully supported, the appropriate comparable sales were used in my report, and the review appraiser's conclusions are not credible. Debbie Rudd publicly apologized to the respondent for opening this complaint because she thought the subject property was located somewhere else. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3203 Joseph M. Delaney

Respondent appeared. Staff summary was read. Complaint which was filed by seller alleges, the appraiser performed a second appraisal at the request of the purchaser and revised his report 16 days later with a \$50,000 lower value. Respondent Replies, there are no errors or USPAP violations, the market value is the determining factor for the subject property. This matter was tabled from February at the respondent's request. Respondent gave a brief history of what happened. There was discussion between the respondent and board members regarding issues about the cost approach and the use of the economic obsolescence in the cost approach. Respondent mentioned he just completed a cost approach class. Debbie Rudd made the motion that the Board find a Level 2 and offer a nondisciplinary letter of remedial action citing violations: 1-1 (b) and 2-1 for the substantial change in the value in such a short period of time indicating that either one or both of the appraisals is not credible, and 1-4 (b) (iii) for no external depreciation for economic conditions recognition. Cynthia Henry seconded the motion. Michael Petrus discussed that he did not agree with the motion, he felt the respondent made a mistake and fixed it. Debbie Rudd discussed that she felt the respondent's due diligence wasn't done in the first appraisal. Michael Petrus voted no, the motion passed.

Review and Action concerning 2868/2869 Lydia A. Mireles

Respondent appeared telephonically. Debbie Rudd made the motion to terminate respondent's probation and mentorship. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3217 David F. Saturno

Respondent appeared. Staff summary was read. Complaint Alleges, following a review, potential USPAP errors were found. Respondent Replies, I stand by my original report because it is an impartial opinion based on sound appraisal techniques used in development of my professional opinion of value. Michael Petrus made the motion that the Board find no violations and dismiss this complaint. Michael Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3212/3213/3214/3215 Scott A. Armstrong

Respondent appeared. Staff summaries were read. Complaint Alleges, the appraiser went outside the appraisal area and over appraised this house by 26-36 thousand dollars. Respondent Replies, in no way did I commit fraud or a conspiracy to commit fraud. This accusation is not taken lightly and is considered to be preposterous. Debbie Rudd made the motion that the Board find no violations and dismiss this complaint. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3207 Henry R. Wiczorek, Jr.

Respondent appeared. Staff summary was read. Complaint Alleges, following a review, several USPAP errors were found. Respondent Replies, the appraiser did not have an opportunity to respond to the complainant's review findings since the complainant sent the review and documentation to the wrong address. Debbie Rudd made the motion that the Board tables this to next month to include an update on the status of complaint 3176. Cynthia Henry seconded the motion. The Executive Director, Dan Pietropaulo gave the Board a summary of complaint 3176 from the December 2010 Board Minutes; however the board wanted to revisit the case to see if there is a pattern. The Board voted unanimously in favor of the motion.

Review and Action concerning 2764 Raymond L. Ferrier

Debbie Rudd made the motion to terminate respondent's probation. Michael Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3196 Wade A. Lavigne

Respondent did not appear. Staff summary was read. Complaint Alleges, given the inaccurate information in this appraisal and given the fact that there are no records of the appraiser or any of his associates ever entering the property, I believe this appraisal was completed fraudulently. Respondent Replies, I physically measured the subject, took some pictures, and walked through the house. There was discussion between the Board members regarding whether respondent was physically at the subject property, and reviewed additional documentation provided by the Executive Director, Dan Pietropaulo. They further discussed whether or not the respondent added data to his work file after the appraisal was completed, and that the photos submitted were only MLS photos, how the sketch has substantial errors, and many other problems throughout the appraisal report. The Board members have concern about the respondent's ethics and competency citing violations 1-1 (a) and 2-1 and would like to combine this complaint with complaint 3210.

Review and Action concerning 3210 Wade A. Lavigne

Respondent did not appear. Staff summary was read. The Board opened this complaint. Complaint Alleges, for answering two questions pertaining to criminal and disciplinary history on renewal application incorrectly. Respondent Replies, it was not my intent to answer question #13 incorrectly or untruthfully regarding criminal history or disciplinary matters. There was discussion between the Board members regarding respondent's license residential renewal application and his certified residential reciprocal application, The Executive Director Dan Pietropaulo gave explanation. Debbie Rudd moved that the Board refer this matter to formal hearing for revocation citing the violation 3236-31 (a) (i). Jeanne Galvin, Assistant Attorney General made the

recommendation to the Board to consider amending the motion to include the denial of respondent's reciprocity application for Certified Residential. Debbie Rudd amended her motion. Michael Petrus seconded the amended motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3206 Jacob D Esslinger

Respondent did not appear. Staff summary was read. Complaint Alleges, following a review, several USPAP errors were found. Respondent Replies, I did not knowingly commit any error or omission intended to mislead the reader or that significant affected the appraisal report. All market data was researched, analyzed, best comps used to represent the opinion of value. The lack of adjustment caused by the omission of comp three's detached shop is regrettable, but when the shop's adjustment is applied the results do not rise to the level of a significant error. Debbie Rudd summarized the property and made the motion that the Board find a Level 2 and offer a due diligence consent letter citing violations; 1-1 (a); 1-2 (e); 1-4 (a) for choosing superior comparables; and 2-2 (a) for failure to mention siding to a busy street Pecos Road; and requiring disciplinary education. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3208 Arturo G. Reeder

Respondent did not appear. Staff summary was read. Complaint Alleges, the appraiser should have used other sales that were interchangeable to the subject in terms of condition, amenities, views, location, site, and that were not bank owned or distressed sales. Respondent Replied, my appraisal conforms to the definition of market value. Cynthia Henry made the motion that the Board go into executive session to seek legal advice. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion. The Board entered into executive session. The Board returned from executive session. Michael Petrus made the motion that the Board refers this to investigation. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3223 Hans C. Dannenberg and 3224 April R. Dannenberg

Respondents appeared telephonically. Debbie Rudd moved that the Board find no violations and dismiss complaint 3224 against April R. Dannenberg. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion. Staff summary was read for complaint 3223 against Hans C. Dannenberg. Complaint alleges, multiple errors in the report including poor comp. selection. Respondent Replies, best comps available were used to produce a credible report. The Board members asked respondent for complaint 3223 several questions regarding the condition to the property, comparable selection, the cost approach in relation to the garage, and seller concessions and the fact that his name was on the appraisal with the wrong certificate number. Michael Petrus made a comment that the errors found on this complaint are the same as previous complaint 3080. Debbie Rudd made the motion that the Board find a Level 2 and offer a due diligence consent letter citing violations; 1-1 (a), 2-1 (a), scope of work acceptability, 1-4(b) cost approach is not credible; 1-1 (c) for having the wrong license number on the appraisal report; and require disciplinary education. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3218 John R. Green and 3219 Jason J. Green

Respondents did not appear. Debbie Rudd made the motion that the Board find no violations and dismiss complaint 3219 against Jason J. Green. Michael Petrus seconded the motion. The motion passed unanimously. Staff summary was read for complaint 3218 against John R. Green. Complaint Alleges, the comparables provided to the lender by the appraisers in their report were not comparable to my home. Respondent Replies, this is a value complaint. There is no support for the complaint. My work file and today's data support my estimate of value. Debbie Rudd made the comment that the cost approach was really flawed; Michael Petrus discussed problems he had with the 104MC form and that the respondent mentioned information was not available when it was. Debbie Rudd mentioned that issue is a scope of work violation. Debbie Rudd made the motion that the Board finds a Level 2 and offers a nondisciplinary letter of remedial action citing violations; 1-4 (b) and scope of work acceptability Michel Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3222 Kevin P. Dowling

Respondent did not appear. Debbie Rudd recused herself. Staff summary was read. Complaint Alleges, the appraiser appraised my property too low to refinance my home. Respondent Replies, the report is well supported and best available comps were used. Michael Petrus moved that the Board refer this to investigation. Michael Trueba seconded the motion. The Board voted unanimously in favor of the motion, Debbie Rudd was recused.

12-month File Review

The Board noted that the status of complaints was listed on the agenda. Jeanne Galvin made the comment to the Board that all complaints with the status "With Ag" have gone out and all her assignments are current.

Review and Action concerning A0001 BW AMS

Respondent(s) did not appear. Staff summary was read. The complainant alleges the AMC's (Appraisal Management Company) sent us orders during 2010 several being from July through December and they had several unpaid invoices to our company. No reply received from the respondent(s). Jeanne Galvin, Assistant Attorney General made the comment in addition to the staff summary that the main issue is that the respondent(s) were operating without the benefit of a registration. The Executive Director Dan Pietropaulo and Amanda Benally explained to the Board how the respondent(s) were contacted. Les Abrams read the options available to the Board to adjudicate this complaint. Jeanne Galvin made the comment that the Board can send out a Cease and Desist letter in addition to opening a complaint. Roy Morris made a call to the public. Roy Morris reminded the Board that there is federal regulation and that the Board can submit a complaint to the Appraisal Subcommittee (ASC) in relation to the Frank Dodd Bill. Michael Petrus made the motion that the Board open a complaint against the appraiser Bill Wisniewski for running the AMC's (Appraisal Management Company) for the last 6 months without a license, issue a Cease and Desist letter, and refer this complaint to the Appraisal Subcommittee (ASC). The Executive Director, Dan Pietropaulo made the comment that the Board should do what we can with the appraiser, the level of money owed, \$15,000, this appears egregious and needs to be looked at. Debbie Rudd made the comment that this involves ethics violation lines 193

through 197 in Uniform Standards of Professional Appraisal Practice (USPAP) Guidelines. Jeanne Galvin repeated the motion. The motion was made by Michael Petrus for the Board to open a complaint against William Wisniewski for owning and operating an AMC (Appraisal Management Company) without the benefit of registration, to file a complaint with the Appraisal Subcommittee (ASC), and issue a cease and desist letter for the operation of that AMC (Appraisal Management Company), citing an ethics rule and A.R.S. SS 3236-31 (a) (8) that requires all appraisers to follow all rules and statutes in this chapter. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0002 Aces Real Estate Appraisals of California

Respondent(s) did not appear. Staff summary was read. It is alleged that this AMC (Appraisal Management Company) is registered in Arizona and is conducting business but has failed to provide evidence that it has a proper bond in place that is required by statute or has answered "Yes" to one of the background check questions on the application and has not provide supporting documentation.. Debbie Rudd confirmed that communication was attempted by board staff, Debbie Rudd made the motion that the Board allow Jeanne Galvin, Assistant Attorney General to enter into negation with respondent(s) and offer a consent agreement and order for voluntary surrender. Michael Petrus seconded the motion. The motion passed unanimously. Debbie Rudd made a motion that the Board give the respondent(s) 60-days to sign the consent agreement and order for voluntary surrender. If respondent fails to sign proposed consent agreement and order for voluntary surrender, this matter will be referred to formal hearing for revocation. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0003 Collateral Appraisal management, LLC

Respondent(s) did not appear. Staff summary was read. It is alleged that this AMC (Appraisal Management Company) is registered in Arizona and is conducting business but has failed to provide evidence that is has a proper bond in place that is required by statute or has answered "Yes" to one of the background check questions on the application and has not provide supporting documentation. Debbie Rudd made a motion that the Board give the respondent(s) 60-days to sign the consent agreement and order for voluntary surrender. If respondent fails to sign proposed consent agreement and order for voluntary surrender, this matter will be referred to formal hearing for revocation. There was some discussion regarding the possibility and procedural requirements to summarily suspend a complaint. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0004 USA Appraisals.Biz

Respondent(s) did not appear. Staff summary was read. It is alleged that the company was operating without the required statutory bond. Amanda Benally informed the Board that this company has now provided a bond. Debbie Rudd made the motion for the Board to close this complaint finding that the respondent(s) have complied. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0005 C & D Real Estate Appraisal Services, Inc.

Respondent(s) did not appear. Staff summary was read. It is alleged that the company was operating without the required statutory bond. Amanda Benally informed the Board that this company has now provided a bond. Mike Petrus made the motion that the

Board closes this complaint finding that the respondent(s) have complied. Debbie Rudd seconded the motion. There was discussion regarding the bond. It was mentioned that the bond is paid to the Board and the Board would pay the appraiser. There were more discussion and questions on how the Board could adjudicate AMC's (Appraisal Management Companies) who does not comply and who is working without a bond. Debbie Rudd mentioned that this topic would be best discussed at the next Appraisal Management Rules Committee Meeting. The Board voted unanimously in favor of the motion.

Review and Action concerning A0006 Epic Real Estate Solutions

Respondent(s) did not appear. Staff summary was read. It is alleged that the AMC (Appraisal Management Company) failed to timely pay appraiser. Respondent's replied that once the complaint was opened and sent to the AMC (Appraisal Management Company), the appraisers have been paid. Amanda Benally confirmed to the Board that the appraisers have been paid. Debbie Rudd made the motion that the Board closes this complaint finding that the respondent(s) have complied. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0007 Valuation Partners

Respondent(s) did not appear. Staff summary was read. It is alleged that the AMC (Appraisal Management Company) failed to timely pay appraiser. Amanda Benally confirmed to the Board that the appraisers have been paid. Debbie Rudd made the motion that the Board closes this complaint finding that the respondent(s) have complied. Michael Trueba seconded the motion. The Board voted unanimously in favor of the motion.

AMC's (Appraisal Management Companies) Ratification: Discussion, consideration, and possible ratification of AMC's approved for registration.

Les Abrams read into the record each AMC (Appraisal Management Company) listed on the consent agenda. All of these AMC's (Appraisal Management Company) are currently on the approved AMC (Appraisal Management Company) list posted on the Board's website and are already authorized to do business in Arizona. Michael Trueba moved that the Board ratify all of the AMC's (Appraisal Management Company) on the consent agenda. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 2836 Jay A. Josephs scheduled for 1:30 p.m.

Jeanne Galvin, Assistant Attorney General explained to the Board why she filed this motion and informed the Board that the respondent did not file a response to the motion. Jeanne Galvin did inform the board that the respondent contacted her prior to the meeting and informed her that he is currently out of town and could not make the meeting. Debbie Rudd made the motion that the Board refer this to investigation. There was some discussion about the bias alleged from the respondent against current Board member Michael Petrus. Jeanne Galvin requested that the Board act on the State's Motion to Rescind. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion. Les Abrams made the motion for the Board to go into executive session to seek legal advice. Michael Petrus seconded the motion. The Board voted unanimously in favor of the motion. Michael Petrus stated that his company has at one point at time applied to be an appraiser at the respondent's AMC (Appraisal Management Company). That is as much information that I know about the respondent,

beyond applying to the respondent's AMC (Appraisal Management Company) I have had no additional information and have no dealings with the respondent. I can reassure the Board that I can remain unbiased and can be truly independent in any decisions. Debbie Rudd asked Jeanne Galvin, Assistant Attorney General if the respondent named any current Board members to be bias in dealing with this complaint. Jeanne Galvin, Assistant Attorney General replied "not to my knowledge" that there were none. Debbie Rudd made the motion to refer this matter to investigation. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Chair person Report

Les Abrams assigned James Heaslet as chairperson on the Application Review Committee. Les Abrams also stated that James Heaslet, Michael Petrus, and Debbie Rudd are all members on the Application Review Committee. Les Abrams assigned James Heaslet to the Personnel Committee. Les Abrams also stated that he, and Myra Jefferson, and Cynthia Henry are on the Personnel Committee and that Cynthia Henry is currently chairperson.

Executive Director's Report

Jeanne Galvin, Assistant Attorney General informed the Board that her assignments are up to date. The Executive Director, Dan Pietropaulo informed the Board that the Board staff has lost one employee, Angenique Castaneda, the staff accountant. Dan is currently working with ADOA (Arizona Department of Administration) to maintain the accounting until the new staff person is in place. Dan also informed the Board that there is a correction to the appraiser totals listed on the Application Review Committee Agenda the changes are listed below.

A. Report on number of Arizona Appraisers and Property Tax Agents:

	<u>3/09</u>		<u>3/10/</u>		<u>3/11</u>	
Licensed Residential	827		606		469	
Certified Residential	1242		1211		1187	
Certified General	819	Total 2888	824	Total 2641	800	Total 2456
Nonresident Temporary	35		59		73	
Property Tax Agents	292		351		335	

Dan reported the complaint statistic report has been revised by Rebecca Loar, and is now current on an annual basis. The report will be revised once again to reflect previous month statistics as well as annual statistics. Statistics are as follows:

Complaint statistics as of 3/15/11 for calendar year 2011:

	<u>2010</u> <u>Complaints</u>	<u>2010</u> <u>Licensee</u>	<u>2011</u> <u>Complaints</u>	<u>2011</u> <u>Licensee</u>
Complaints received by Board	161	N/a	16	16
Complaints heard by Board*	473	N/a	74	47
<u>OF THOSE COMPLAINTS:</u>				
Dismissed	77	74	9	9
Ref. to Investigation	79		2	2
Nondisciplinary Letter of Concern	14		5	5
Nondisciplinary Remedial Action	21		6	6
Due Diligence	46		2	2
Probation	45		9	6
Informal Hearing	62		24	10
Formal Hearing	8	8	2	2
Suspension	19	4	0	0
Surrender	4	4	4	1
Revocation	9	4	1	1
Cease & Desist	1	1	0	0
<u>Violation Levels:</u>				
I	N/a		5	5
II	N/a		5	5
III	N/a		1	1
IV	N/a		1	1
V	N/a		0	0
<u>Additional Information:</u>				
Complaints Closed & Jurisdiction Expired	44	29	13	3
*Complaints may appear on a Board agenda and be heard in more than one month in a calendar year.				

Dan reports that the credit card payment and the merging of data into a new database projects are progressing forward. Staff has created a new public records request form which is on the website as the staff is being overwhelmed for public record request from AMCs. The new form will not only assist in managing the requests but the new process will reduce time spent on future requests for the same persons. He reported that work is being continued on the AMC rules and that hopefully we will be in a position at the April board meeting to announce the date and time for the next rules meeting.

Application Review Committee

Michael Petrus recommended that the Board approve all items on the application review committee agenda except for AMC (Appraisal Management Company) Application Number 40092. Debbie Rudd made the motion that the Board accept the Application Review Committee's recommendations. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Michael Petrus recommended to the Board to open a complaint against AMC (Appraisal Management Company) Application Number 40092 for noncompliance regarding failure to provide the required bond and recommend the bond's effective date be as of 8/24/10. Michael Petrus made the motion to open a complaint for noncompliance. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

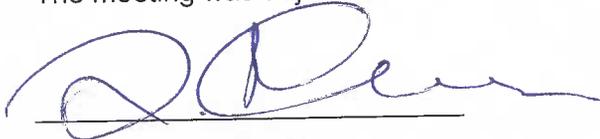
Education Review Committee

Debbie Rudd recommended to the Board to approve all items on the education committee agenda. Mike Trueba made the motion that the Board accept the Education Committee's recommendations. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Confirmation of Meeting Dates, Times, Locations, and Purposes

The Board decided to remove the rules meeting from April and will schedule the next rules committee meeting when necessary.

The meeting was adjourned.

A handwritten signature in blue ink, appearing to read "L. G. Abrams", written over a horizontal line.

Lester G. Abrams, Chairperson