

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

September 21, 2016 - MINUTES
Ramkota, 800 S 3rd Street, Bismarck, North Dakota

Chairperson Lanpher called the meeting to order at 9:00 AM. Roll call was taken.

Board Members present:	Chairperson Dave Lanpher Kathy Maier Corey Kost	Tim Timian Brock DesLauriers
Staff Present:	Edward Erickson, Legal Counsel	Jodie Campbell David Campbell
Guests Present:	Sheila Ressler David Whartnaby Jill Beck, ND Realtors Assoc. Greg Smith Wade Iverson Matthew Schlenvogt	John Whartnaby Casey Olson Dean Rylander, ND Appr Assoc. Kristin Smith Michelle Danarski Mary Campbell
Guests Present Online:	Eric Whitehill Kathy Berry	Eric Oberg Tim Zak, Core Logic

Public Comment Period: No comments

Minutes: Board members reviewed the minutes of June 23, 2016. Brock DesLauriers moved to approve the minutes with the corrections noted. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Corey Kost and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Applicants:

Permits Issued/Require Board approval:

Staff reviewed, approved and issued permits to the following applicants:

Certified General:

- Marlo L. Headrick (via reciprocity with WI)
- Chris Jenkins (via reciprocity with IA)
- Ted E. Mc Williams (via reciprocity with IA)
- Leah J. Murphy (via reciprocity with CA)
- Martin T. O'Donnell (via reciprocity with CA)

Certified Residential:

- Paul J. Link (via reciprocity with NC)

Apprentice:

- Taylor B. Bussman (Supervisors: Brian & Rodger Tinjum)
- Eddy J. Mitzel (Supervisor: Todd Schmidt)
- David J. Nord (Supervisor: Peggy Boettner)
- Alex Oestreich (Supervisor: Neal Eriksmoen)

Kathy Maier moved to affirm the applicants for their respective levels. Tim Timian seconded the motion. Tim Timian, Kathy Maier, Brock DesLauriers, Corey Kost and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Sheila Ressler is making application for certified general and was present for discussion. Review of Ms. Ressler's application indicates she meets the education and experience hour requirements for certified general. Ms. Ressler submitted three reports for review. All three reports were similar, therefore, one report was reviewed by an Independent Reviewer. Review of the one report indicated substantial compliance with USPAP. However, Rules require an applicant for certified general must demonstrate a working knowledge of all three approaches to value. Board members were in agreement that Ms. Ressler must submit additional work product that includes the three approaches. Kathy Maier moved to table Sheila Ressler's application for certified general and request Mr. Ressler submit one additional report for Board review. The report submitted must include all three approaches to value. Tim Timian seconded the

motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Casey Olson is making application for licensure and was present for discussion. Review of Mr. Olson's application indicates he meets the education and experience hour requirements for licensure. Reports were reviewed by an Independent Reviewer. Based on review of all work product, the reports appear to meet the minimum standards of USPAP. Kathy Maier moved to approve Casey Olson's application for licensure, pending passage of the national licensure exam. Corey Kost seconded the motion. Kathy Maier, Brock DesLauriers, Corey Kost, Tim Timian and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Investigations:

Case 215-156: The respondent, Greg Smith, was in attendance. Corey Kost recused himself. The remaining Board members reviewed the allegations and Mr. Smith's response to the allegations.

Kathy Maier moved there was sufficient evidence to open an investigation. Tim Timian seconded the motion. Kathy Maier, Tim Timian, Brock DesLauriers and Dave Lanpher all voted yes. Corey Kost abstained from voting. Motion carried. Discussion took place.

Mr. Smith was unaware of the fact that a draft copy of a report was forwarded to the Client versus the original. He further indicated he did not have knowledge of this until a much later date. The draft copy included numerous deficiencies, which included a different value. The errors had been corrected on the original appraisal, but the lender received the incorrect draft copy.

The Board is charged with protecting the public and this error did affect a member of the public. Two major issues are of concern: 1) Mr. Smith allowed someone to use his signature and 2) a report that did not appear to meet the minimum standards of USPAP and signed by Mr. Smith, was forwarded to a Client.

Having considered the allegations and response to the allegations, Kathy Maier moved to offer Gregory Smith a conditional dismissal of the allegations on the following terms: 1) Mr. Smith must successfully complete a two-day USPAP Course and 2) there must be no valid complaints filed against Mr. Smith within the next 24 months (effective date 9/21/16). Tim Timian seconded the motion. Kathy Maier, Tim Timian, Brock DesLauriers and Dave Lanpher all voted yes. Cory Kost abstained from voting. Motion carried.

Case 216-160: This case involves allegations against two appraisers: John Whartnaby and Mark Thelen. John Whartnaby was in attendance for discussion. The allegations noted numerous errors with the appraisal in question. The Board reviewed the allegations against Mr. Whartnaby (Case 216-160A) and his response. Discussion took place. Mr. Whartnaby indicated he relied on market data provided by Mr. Thelen when completing the appraisal in question, trusting that Mr. Thelen was geographically competent and that the information Mr. Thelen provided was correct. Mr. Whartnaby acknowledged he did not do additional research other than what was provided by Mr. Thelen.

Discussion turned to the intended use of the report. According to his deposition, Mr. Whartnaby had no knowledge the report was to be used in a NDDOT condemnation action. The report was written for the landowner's personal use. A detailed discussion of additional allegations continued. Mr. Whartnaby acknowledged his errors and accepted full responsibility. He indicated he returned the fee to the Client. The Board members were in agreement that it does not appear Mr. Whartnaby intended to mislead. This appears to be an issue of competency.

Based on the allegations and review of all the information provided, the Board determined there was probable cause to believe a violation has occurred. Tim Timian moved to initiate an investigation, move forward with a complaint and proceed with disciplinary action. In lieu of disciplinary action, the Board will offer Mr. Whartnaby a Settlement Agreement on the following terms: 1) payment of a \$1000 fine; 2) successful completion of two courses: a minimum of a 15-hour Highest and Best use course and a 15-hour USPAP course; 3) no commercial appraisals may be completed for a period of 6 months; 4) provide a log of commercial appraisals for the 12 months following the 6--month period indicated in #3. The Board may select a minimum of two reports from the log for Board review; and 5) there must be no valid complaints filed against Mr. Whartnaby within the next 5 years. Brock DesLauriers seconded the motion.

Corey Kost amended Settlement Agreement with the following terms: 1) payment of a \$1000 fine; 2) successful completion of two courses: a minimum of a 15-hour Highest and Best Use course and a 15-hour USPAP course; 3) submit a log of commercial appraisals every month for 12 months, effective 9/21/16. The Board may select a minimum of two reports from this log for Board review; and 4) there must be no valid complaints filed against Mr. Whartnaby within the next 5 years. Brock DesLauriers seconded the amended motion. Kathy Maier, Corey Kost, Tim Timian, Brock DesLauriers and Dave Lanpher all voted yes. The vote was unanimous. Motion carried.

Discussion turned to Mark Thelen (Case 216-160B). Mr. Thelen's initial response to the allegations indicated he did not feel he should be named in the accusation as he did not sign the report, nor did he provide service that would fall under the definition of appraisal practice per USPAP. After review of the information provided, the Board concluded that it appears Mr. Thelen was engaged by the Client, accepted a fee, and provided significant assistance relative to this assignment

Tim Timian moved to initiate an investigation against Mr. Thelen and request he provide additional information. Mr. Thelen is to provide a true copy of all 1) correspondence between Mr. Thelen and the Client identified in the report in question, as well as correspondence relative to any other appraisal reports he completed for this Client, 2) correspondence related to any commercial appraisal assignments between Mr. Thelen and all other Clients in the Williston area for the past few years and 3) correspondence between Mr. Thelen and John Whartnaby relative to this assignment and other appraisal related assignments in the Williston area for the past few years. In addition, Mr. Thelen is to provide a written record of all payments made or received relating to appraisal assignments in the Williston area within the past few years. The response must be received within 30 days of receipt of the letter of request. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Case 216-162: The respondent, Matt Schlenvogt and his attorney, Ms. Michelle Danarski were in attendance. The allegations were filed anonymously. Board members reviewed the allegations and Mr. Schlenvogt's response to the allegations. The allegations allege conflict of interest based on a family relationship among the lender, the company assigning appraisal, and the appraiser. Mr. Schlenvogt's response states the accusations are false. Further allegations detail concerns with the appraisal report. Board members discussed the issues with Mr. Schlenvogt. It appears the assignment was difficult, with limited data. Board members found no evidence of conflict of interest and determined Mr. Schlenvogt fully addressed each of the issues outlined in the allegations.

Based on discussion with Mr. Schlenvogt and his written response to the allegations, Kathy Maier moved to dismiss the allegations. Corey Kost seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Update on Pending Investigations:

Case 216-161: The Board is awaiting a response from the respondent, Mark Thelen. A response must be received by September 30. A conference call will be scheduled upon receipt of the response.

Edward Erickson, legal counsel, provided an update on pending cases settlement agreements and correspondence.

Inv 214-141: Tonia Dosch is requesting an extension until March 2017 to complete the course required as part of her settlement agreement. The course she was registered to complete was cancelled. Tim Timian moved to approve Ms. Dosch's request. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Inv 214-133: William Kirschner, legal counsel for Kurt Kielisch, has submitted a counter offer on behalf of Mr. Kielisch, in response to a proposed settlement agreement offered by the Board. Board members reviewed the offer.

Tim Timian moved to decline Mr. Kielisch's offer to settle. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Inv 214-135/Inv 214-145: To date, John Hrabka has not signed the proposed settlement agreement. Tim Timian moved to forward both Cases (Inv 214-135 and Inv 214-145) to Administrative Hearing. Kathy Maier seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

AMC Rules: Discussion relative to AMC rules will be tabled and addressed via a teleconference meeting to be scheduled in November.

Other Business:

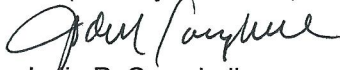
2016 Board Meeting Schedule: 9:00AM December 5 - Bismarck

The September 15, 2016 AQB Exposure draft dated will be addressed at another time.

2016 Fall AARO Conference: Staff requested the Board send Joe Ibach as Board Investigator to the Fall AARO conference. Kathy Maier moved to approve the request. Tim Timian seconded the motion. Corey Kost, Brock DesLauriers, Tim Timian, Kathy Maier and Dave Lanpher all voted yes to the motion. The vote was unanimous. Motion carried.

Chairman Lanpher called for adjournment.

Respectfully submitted,



Jodie R. Campbell
Executive Secretary