

**BEFORE THE MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD**

**IN THE MATTER OF:
DIANNE ABLES
LICENSE NO: RA-106**

CASE NO. 07-1305

CONSENT ORDER

This matter came before the Mississippi Real Estate Appraiser Licensing and Certification Board (Board) for entry of a Consent Order regarding the Respondent **DIANNE ABLES**, who has been issued Mississippi Real Estate Appraiser **License No. RA-106**. This action is before the Board as the result of Respondent's appraisal of real property located at 1909 Indian Creek Road, Iuka, Mississippi 38852-7179. The Board having considered these matters, and Respondent Dianne Ables having voluntarily agreed to the Board's entry of this Consent Order, makes the following Findings of Fact, Conclusion of Law and Disposition:

FINDINGS OF FACTS:

1. The Mississippi Real Estate Appraiser Licensing and Certification Board is charged by law with the responsibility for the regulation of the practice of real estate appraisal; and among other things, is responsible for matters relating to real estate appraiser standards, real estate appraiser qualifications and licensing, and disciplinary functions pursuant to Title 73, Chapter 34 of the Mississippi Code of 1972, as amended. The Board pursuant to this authority has full, complete and proper jurisdiction over the parties and the subject matter of this cause. The Respondent, Dianne Ables, is a licensee of the Board, holding License No. RA-106, and whose address is:

Dianne Ables
Post Office Box 1061
Iuka, MS 38852

2. Respondent acknowledges that she has a right to a formal hearing on the allegations of violations against her in this matter. Respondent expressly waives all further procedural steps, and expressly waives any all objections or legal challenges she may have regarding or arising out of this matter, the Board's consideration and entry of this Consent Order or any of its terms.

3. Respondent performed an appraisal of property located at 1909 Indian Creek Road, Iuka, MS 38852-7129, on February 16, 2013. The Board charges that Respondent's actions and conduct in the appraisal of this property violates the Mississippi Real Estate Appraiser Licensing and Certification Act, and more specifically, Miss. Code Ann. Sections 73-34-35(1)(k),(l), 73-34-37 & 73-34-39(1)(b), as amended, and the Years 2012-2013 USPAP Ethics Rule (Conduct), Record Keeping Rule, Scope of Work Rule (Problem Identification, Scope of Work Acceptability and Disclosure Obligations), and Standards Rules 1-2(e)(i),(h), 1-4(a), and 2-2(b)(vii),(viii), as follows:

4. Respondent does not have verified documentation or analysis to support the information used in the sales comparison approach in the appraisal report, in violation of Sections 73-34-35(1)(l), 73-34-37, and 73-34-39(1)(b), as amended, the Years 2012-2013 USPAP Record Keeping Rule, Scope of Work Rule (Problem Identification, Scope of Work Acceptability and Disclosure Obligations), and Standards Rules 1-2(e)(i),(h), 1-4(a), and 2-2 (b)(vii),(viii).

Respondent states in the appraisal report that she used MLS data sheets as data and verification sources for the Sales Comparison Approach. There is no documentation in Respondent's workfile to show this information was analyzed or verified. The MLS records in the workfile are dated May 6, 2013, almost three (3) months after the date of appraisal report which was February 16, 2013

5. Respondent fails to disclose and obtain the proper signed documentation stating she was also assigned the listing to sale the subject property, in violation of Miss. Code Ann. Sections 73-34-35(1)(k)

73-34-37 & 73-34-39(1)(b), as amended, and the Years 2012-2013 USPAP Ethics Rule (Conduct) and Record Keeping Rule.

Respondent received an e-mail request to appraisal and list the subject property on February 6, 2013. Respondent appraised the subject property on February 16, 2013. However, she did not disclose that she was also the selling agent of the subject property to the client, in the listing agreement dated March 4, 2013, or in the report certification. Furthermore, Respondent provides no documentation that all parties agreement upon her taking this listing for the sale of the subject property.

CONCLUSIONS OF LAW

6. Respondent admits and agrees that her actions and conduct above in paragraphs 4 & 5 violated Miss. Code Ann. Sections 73-34-35(1)(I) and 73-34-37, as amended, which state in pertinent parts:

73-34-35(1): ... [T]he rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for any of the following acts or omissions:

(k) Taking a listing for the sale of a property within ninety (90) days of appraising such property, except as may be otherwise agreed upon by all parties and disclosed in the listing agreement;

(I) Any act or conduct, whether, whether the same or of a different character than specified above, which constitutes or demonstrates ... untrustworthiness; or any other violation of the provisions of this chapter and of rules and regulations established by the board.”

73-34-37: “Each real estate appraiser licensed under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rule to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice...” (USPAP).

7. Respondent admits and agrees that her actions and conduct set forth above in paragraphs 4 & 5 violated Miss. Code Ann. Section **73-34-39**, as amended, which states in pertinent part:

(1) A licensed real estate appraiser shall retain for a period of five (5) years the original or a true copy of: ... (b) all supporting data assembled and formulated by the appraiser in preparing each such appraisal report.

8. Respondent admits and agrees that her actions and conduct set forth above in paragraphs 4 & 5 violated the Years 2012 and 2013 Uniform Standards of Professional Appraisal Practice (“USPAP”) Record Keeping Rule and Scope of Work Rule (Problem Identification, Scope of Work Acceptability and Disclosure Obligations) which state in pertinent parts:

ETHICS RULE: An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interest.

Conduct: If known prior to accepting an assignment, and/or discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification:

Any current or prospective interest in the subsequent property or parties involved;
and

Any services regarding the subject property performed by the appraiser within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.

RECORD KEEPING RULE: An appraiser must prepare a work file for each appraisal, or appraisal review, or appraisal consulting assignment. A work file must be in existence prior to the issuance of any report.

The workfile must include: ... 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 locations(s) of such other documentation.

SCOPE OF WORK RULE: For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:

Identify the problem to be solved;
Determine and perform the scope of work necessary to develop credible assignment results; and
Disclose the scope of work in the report.

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results:

Credible assignment results require support by relevant evidence and logic. The credibility of assignment results is always measured in the context of the intended use.

Problem Identification: An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review or appraisal consulting problem to be solved.

Subject of the assignment and its relevant characteristics; and
Assignment conditions

Scope of Work Acceptability: The scope of work must include the research and analyses that are necessary to develop credible assignment results.

An appraiser must be prepared to support the decision to exclude any investigation, information, method, or technique that would appear relevant to the client, another intended user, or the appraiser's peers.

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Disclosure Obligations: The report must contain sufficient information to allow intended users to understand the scope of work performed.

9. Respondent admits and agrees that her actions and conduct set forth above in paragraphs 4 & 5 violated the Years 2012 and 2013 Uniform Standards of Professional Appraisal Practice ("USPAP") Standards Rules 1-2(e),(i),(h), 1-4(a), and Standard Rules 2-2(b)(vii),(viii), which state in pertinent parts:

Standards Rule 1-2: In developing a real property appraisal, an appraiser must....

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

(i) the location and physical, legal, and economic attribution;

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE;

Standards Rule 1-4: In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(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.

Standards Rule 2-2: Each written real property report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report;

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(vii) summarize the scope of work used to develop the appraisal;

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

10. Respondent's violations of Miss. Code Ann. Sections 73-34-35(1)(k),(l), 73-34-37 & 73-34-39(1)(b), as amended, and her violations of the Years 2012-2013 USPAP Ethics Rule (Conduct), Record Keeping Rule, Scope of Work Rule (Problem Identification, Scope of Work Acceptability and Disclosure Obligations) and Standards Rules 1-2(e)(i),(h), 1-4(a), and 2-2(b)(vii),(viii), constitute grounds for the imposition of discipline, including revocation, suspension or other disciplinary action against her license with the Board, in accordance with Section 73-34-35(1).

DISPOSITION

11. Based upon the foregoing Findings of Fact and Conclusions of law, the Board, with Respondent Dianne Able's consent, hereby Orders that:

A. Respondent's appraisal license No. RA-106 is hereby suspended for three (3) months. However, this suspension is hereby stayed, provided Respondent fully comply with the following provisions:

(1) Respondent must complete a fifteen (15) hour national USPAP 2014- 2015 course and pass the accompanying examination, within two hundred seventy (270) days after the date of the signing of this Consent Order.

(2) Respondent must complete a four (4) hour workfile course, within two hundred seventy (270) days after the date of the signing of this Consent Order.

(3) Respondent must complete a thirty (30) hour advance appraisal procedures course and pass the accompanying examination, no later than two hundred seventy (270) days after the date of the signing of this Consent Order.

(4) Respondent must complete a thirty (30) hour Advanced Residential Report Writing, Part II course, and pass the accompanying examination, within two hundred seventy (270) days of the signing of this Consent Order.

B. Respondent expressly agrees that if she fails to comply with any of the above provisions in sub-paragraphs 11.A(1) through 11.A(4), that her license is hereby suspended for three months, effective the day after the two hundred seventy (270) days period after the signing of this Consent Order.

C. The Board Staff recommends that the Respondent complete the mandated USPAP course in Section 11.A(1) in a classroom environment.

D. The credit hours generated by the successful completion of the above mandated courses may not be used to satisfy the twenty-eight (28) hours of continuing education that are required for license renewal.

E. This action and Consent Order of the Board shall be public record and shall be spread upon the Minutes of the Board as its official act and deed.

F. This disciplinary action shall be reported to and posted with the appropriate authorities. This action shall also be published in the Board's newsletter.


G. Respondent expressly waives any and all objections or legal challenges she may have regarding or arising out of this matter, the entry of this Consent Order or any of its terms. She further agrees to and expressly waives any objections or legal challenges to the Board taking this

matter up preliminarily for purpose of considering and voting on whether or not to enter into this Consent Order.

H. Should the Board decline the entry of this Consent Order, Respondent understands and acknowledges that she remains entitled to a fair and impartial hearing of this matter.

SO ORDERED AND ENTERED, this the 22 day of May, 2014.

MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 
GERALD BARBER, CHAIRMAN

AGREED TO:



DIANNE ABLES

5-13-14

