

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

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

COMPLAINANT

VS.

NO. 18-1908

**DOUG M. ERVIN
LICENSE NO. RA-924**

RESPONDENT

CONSOLIDATED WITH:

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

COMPLAINANT

VS.

NO. 19-1908

**DOUG M. ERVIN
LICENSE NO. RA-924**

RESPONDENT

CONSENT ORDER

THIS MATTER came before the Mississippi Real Estate Appraiser Licensing and Certification Board (sometimes hereinafter "Board") for entry of a Consent Order regarding the Respondent, Doug M. Ervin (sometimes hereinafter "Respondent" or "Ervin"), who has been issued a Mississippi Real Estate Appraiser license, No. RA-924. This action is before the Board as the result of Respondent's appraisals of real properties located at 1030 Eastover Lane and 1113 Merle Dr. in McComb, Mississippi. By entering into this Consent Order, Respondent Ervin waives his right to a hearing before the Board with full due process and the right to appeal any adverse decision that may have resulted from such hearing. Having reached an agreement by consent on this matter, the Board issues its Findings of Fact, Conclusions of Law and Disciplinary Order as follows:

FINDINGS OF FACT

I.

The Mississippi Real Estate Appraiser Licensing and Certification Board is charged by Mississippi law with the regulation of the practice of real estate appraisal including matters related to real estate appraiser standards, qualifications and licensing, and disciplinary functions pursuant to Miss. Code Ann. §§73-34-1, *et seq.*, as amended. The Board, pursuant to this authority, has full, complete and proper jurisdiction over the parties and the subject matter herein.

II.

Respondent, Doug M. Ervin, is an adult resident of Mississippi whose last known address of record with the Board is 1112 Chatawa Bluffs North, Magnolia, Mississippi 39652. Respondent is the holder of a real estate appraiser's license, No. RA-924, issued by the Board pursuant to Miss. Code Ann. §§73-34-1, *et seq.*, as amended, and, as such, he is subject to all of the provisions, rules, regulations and statutes governing the appraisal of real property and licensing of real estate appraisers under Mississippi law.

III.

On or about August 19, 2019, the Board received written notice from the U.S. Department of Housing and Urban Development ("HUD") regarding Respondent Ervin. The referenced notice reflected that HUD was informing the Board of "HUD's removal with education sanction imposed against appraiser, Doug M. Ervin ... for violations of FHA guidelines and/or the Uniform Standards of Professional Appraisal Practices (USPAP)." The referenced HUD notice referenced two appraisals performed by Respondent Ervin at 1030 Eastover Ln., McComb, Mississippi and 1113 Merle Dr., McComb, Mississippi, respectively. Upon receipt of the HUD

notice, the Board initiated its own investigation of the two subject appraisals performed by Respondent Ervin and assigned Docket Nos. 18-1908 (1030 Eastover Ln. appraisal) and 19-1908 (1113 Merle Dr. appraisal) to the matters.

IV.

On or about July 12, 2018, Respondent Ervin performed an appraisal of property located at 1030 Eastover Ln., McComb, Mississippi 39648 (sometimes hereinafter “Eastover”) and issued an Appraisal Report (sometimes hereinafter “Eastover Report”). On or about August 5, 2018, Respondent Ervin performed an appraisal of property located at 1113 Merle Dr., McComb, Mississippi 39648 (sometimes hereinafter “Merle”) and issued an Appraisal Report (sometimes hereinafter “Merle Report”). The Eastover Report and Merle Report are sometimes hereinafter referred to collectively as the “Reports” or “Appraisal Reports.”

V.

Upon review of both the Eastover Report and Merle Report issued by Respondent, the Board investigation established that Respondent did not provide verified documentation or analysis in the associated work files for information stated in either of the referenced Appraisal Reports. Both of the Reports contained several inconsistencies when evaluated against the limited information contained in the respective work files.

VI.

In the Eastover Report, property taxes were reflected as “zero balance” with no explanation or analysis provided in explanation why the property taxes were “zero.” Respondent did not properly analyze the contract for the sale of the Eastover property in reference to the indicated seller concessions. The subject contract reflected the sellers agreed to pay \$2,900.00 in closing costs and for an “Engineers Report (max of \$500.00)” regarding the foundation but the

referenced \$500.00 seller concession for an engineer's report is mentioned nowhere in the Eastover Report issued by Respondent. The foundation information is not complete in the Eastover Report. The foundation information indicated is not sufficient for FHA financing qualification. Foundation is listed as block and piers with no further description of the permanent foundation as is required. The Report contains no information that the foundation information is subject to an engineer's report to verify the foundation information required.

VII.

Respondent failed to provide MLS documentation in the workfile to verify comparable sale information for the Eastover Report. Comparable #1 was a Real Estate Owned (REO) sale with a condition of needing repairs. Respondent showed no analysis of this distressed property sale and how Respondent compared it to the subject. Respondent stated in the Eastover Report that the most weight was given to comparables #1 and #3. There was no analysis or discussion of the condition or location of comparable #2. Comparable #2 was located over 30 miles from the subject in a different county and market area. Respondent provided no explanation why Comparable #2 was considered a comparable sale.

VIII.

All of the comparables used had acreage sites as compared to the subject and adjusted minimally. The subject is situated on a subdivision sized lot in a mobile home subdivision according to the subject legal description. There was no explanation for the calculations used to obtain the adjustments for differences in site contribution to the selling price. Comparable #2 was located over 30 miles away and sold for considerably more than comparable sales #1 and #3 and no location adjustment was made which adjustment was warranted.

IX.

In the Eastover Report submitted by Respondent, the data and analysis presented in the cost approach section of the Report was not complete or accurate. No adequate information for the client to replicate the cost figures and calculations was provided. Respondent only stated “current market conditions.” No sales data was provided to justify the site value reflected in Respondent’s Report and the cost approach section reflected two grossly different sizes for the two sections of the subject (typical) double-wide mobile home when each section should be approximately the same size. The date of the cost data utilized was stated as 2015 which rendered the data obsolete for a 2018 appraisal.

X.

In the Merle Report issued by Respondent, discussion of the legal description stated “see attached” when the legal description provided was only 1 page of a 4-page Warranty Deed. Respondent failed to discuss the easement used for access to the property. The Merle Report contained inadequate analysis of the sales contract; only one page of the contract was included with the Report. Respondent failed to discuss justification for marking “yes” to a permanent foundation. Respondent should have conditioned the Report as subject to inspection and engineer’s report regarding the foundation. The engineer’s report included with Respondent’s Report was not a report for the subject property but rather was rendered for comparable #1. The photograph provided by Respondent for comparable #3 was actually a photograph for a different property.

CONCLUSIONS OF LAW

XI.

Respondent Doug M. Ervin admits and agrees, by consent with the Board, the above and foregoing described acts and omissions of Respondent constitute violations of Miss. Code Ann.

§73-34-35 and §73-34-37 and the Years 2018-2019 Uniform Standards of Professional Appraisal Practice (USPAP) Record Keeping Rule, Scope of Work Rule (*Problem Identification, Scope of Work Acceptability and Disclosure Obligations*), and Standards Rules 1-1(a), (b) and (c), 1-2(e)(i), and (h), 1-3(b), 1-4(a), (b)(i)-(iii), 1-5(a), 2-1(a)-(b), and 2-2(a)(iii),(viii) and (viii), which provide, in relevant 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...

(l) Any act or conduct ...which constitutes or demonstrates ...any ...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 rules 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.

2018-2019 USPAP REQUIREMENTS

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

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 location(s) of such other data, information and documentation...

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

1. identify the problem to be solved;
2. 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.

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

Comment: ...In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the following assignment elements:

- subject of the assignment and its relevant characteristics; and
- assignment conditions.

This information provides the appraiser with the basis for determining the type and extent of research and analyses to include in the development of an appraisal...

Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

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

Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.

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.

Comment: Proper disclosure is required because clients and other intended users rely on the assignment results. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

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

- (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;
- (b) not commit a substantial error of omission or commission that significantly affects an appraisal; and
- (c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

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) Its location and physical, legal, and economic attributes;

(h) determine the scope of work necessary to produce credible assignment results in accordance with the Scope of Work Rule.

Standards Rule 1-3: When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(b) develop an opinion of the highest and best use of the real state.

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

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and

(iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (depreciation).

Standards Rule 1-5: When the value opinion to be developed is market value, an appraiser must , if such information is available to the appraiser in the normal course of business:

(a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; ...

STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Standards Rule 2-1: Each written or oral real property appraisal report must:

- (a) clearly and accurately set forth the appraisal in a manner that will not be misleading;
- (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; ...

Standards Rule 2-2: Each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.

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

- (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment;

- (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;

XII.

DISCIPLINARY ORDER

The Board, by Respondent Doug M. Ervin's agreement and consent, and having issued its Findings of Fact and Conclusions of Law, hereby Orders and imposes discipline as follows:

1. The license of Respondent shall be suspended for three (3) months (ninety days) beginning upon the effective date of this Consent Order.
2. Respondent shall complete a fifteen (15) hour 2020-2021 national USPAP course, and pass the accompanying examination, within ninety (90) days of the effective date of this Consent Order.
3. Respondent shall complete a seven (7) hour Work File course within ninety (90) days of the effective date of this Consent Order.
4. Respondent shall complete a three (3) to seven (7) hour Manufactured Home appraisal course within ninety (90) days of the effective date of this Consent Order.
5. Respondent shall complete a fifteen (15) hour Advanced Residential Applications and Case Studies course, and pass any accompanying examination, within ninety (90) days of the effective date of this Consent Order.
6. Respondent shall complete a seven (7) hour How to Support your Analysis course within ninety (90) days of the effective date of this Consent Order.
7. Respondent shall complete a fifteen (15) hour Highest and Best Use course within ninety (90) days of the effective date of this Consent Order.
8. 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 required for

renewal of Respondent's license. The Board recommends that Respondent complete the mandated USPAP course in a classroom environment, if available.

9. Respondent expressly agrees that failure to comply with any of the terms of this Consent Order, within the time period specified, shall constitute grounds for additional disciplinary action by the Board without further notice to Respondent. Respondent further agrees that failure to complete the above mandated courses, on the terms and within the time period specified in this Consent Order, will effect the immediate placement of Respondent's license in inactive status until such time as Respondent provides the Board with proof of satisfactory completion of said mandated courses and full compliance with all other terms of this Consent Order.
10. This action and Order of the Board shall be public record and shall be spread upon the minutes of the Board as its official act and deed.
11. This disciplinary action shall be reported to and posted with the appropriate authorities and shall also be published in the Disciplinary proceedings section of the Board's website.
12. Respondent, as evidenced by his signature affixed hereto, expressly waives any and all objections or legal challenges he may have regarding or arising out of this matter, the entry of this Consent Order, or any of its terms. Respondent acknowledges and agrees that he waives any legal objections that may otherwise be available to him as to the Board taking this matter up preliminarily for the purpose of considering and voting on whether or not to approve entry of this Consent Order.
13. Respondent acknowledges and agrees that, should the Board decline approval of entry of this Consent Order, Respondent remains entitled to a fair and impartial administrative hearing of this matter before the Board.

14. This Consent Order shall be effective upon the date it is approved and executed by the Board.

SO ORDERED, this the 25 day of November, 2020.

MISSISSIPPI REAL ESTATE APPRAISER LICENSING
AND CERTIFICATION BOARD

By: *David Griffith*
David Griffith, Chairperson
For and on behalf of the Board

AGREED:

Doug M. Ervin DATE: 11-2-2020
DOUG M. ERVIN

