

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

**IN THE MATTER OF:
JERRY GANN BREWER
LICENSE NO: GA-23**

CASE NO. 03-1414

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 **JERRY GANN BREWER**, who has been issued Mississippi Real Estate Appraiser License No. **GA-23**. This action is before the Board as the result of Respondent's appraisal of real property located at **Americas Best Value Inn, 4250 Casino Center Drive, Robinsonville, Mississippi, 38664**. By entering into this Consent Order, Respondent Brewer waives his right to a hearing with full due process and the right to appeal any adverse decision resulting from that 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 law with the regulation of the practice of real estate appraisal including matters relating to real estate appraiser standards, qualifications and licensing, and disciplinary functions pursuant to Title 73, Chapter 34 of the Mississippi Code of 1972, as amended. The Board, pursuant to the authority, has full, complete and proper jurisdiction over the parties and the subject matter herein.

II.

Respondent, Jerry Gann Brewer is an adult resident of Mississippi whose last known address of record with the Board is 103 Scott Street, Senatobia, Mississippi 38668. Respondent is the holder of a real estate appraiser's license, NO. GA-23, issued by the Board pursuant to 73-34-1, *et seq.*, Miss. Code Ann. (1972), as amended, and, 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 January 25, 2013, Respondent Brewer performed an appraisal of property located at Americas Best Value Inn, 4250 Casino Center Drive, Robinsonville, Mississippi, 38664 and issued an Appraisal Report

IV.

Respondent did not provide verified documentation or analysis in the work file for various information stated in the referenced Appraisal Report. He provides a limited work file and does not have verified documentation necessary to sufficiently analyze the information for the three (3) approaches stated in the appraisal report.

V.

Respondent states the verification sources in the sales comparison approach as The Desoto Report, The North Desoto County MLS, the sales as accumulated by the Mississippi Land Bank, and the Respondent's own files and contacts with other appraisers, but no such verification is contained in the work file. There is no reasoning or explanation of adjustments per room as compared to the comparables; subject is reflected at \$30.00 per room while the comparables are reflected at an average of \$52.50 per room. There is no explanation of how Respondent concluded \$30.00 per room for the

subject property as indicated in the sales comparison approach portion of Respondent's Appraisal Report.

VI.

In the cost approach section of the Appraisal Report, Respondent utilizes twenty (20) year old land sales but included no documented analysis of these twenty (20) year old sales in support of the site value concluded. No adjustments were made for time, size or location. There was no depreciation of improvements concluded in the cost approach and no disclosure in explanation of why no depreciation was concluded.

VII.

There are no verified documents to support the Cap Rate included in the income approach section of the Appraisal Report. No analysis of the Cap Rate is reflected in the report. Respondent provides no explanation of the subject's 75% vacancy rate. Respondent concluded the Net Operating Income (NOI) for the subject property as \$172,589.00 yet the range concluded for the five (5) comparables used was between \$400,000.00 at the highest to \$241,588.00 at the lowest. There is no explanation why the Respondent felt going below the lowest comparable NOI concluded for the five (5) comparables was warranted. The subject's income and expenses are so different from those of the comparables that more weight should have been given to the comparables or disclosure from Respondent on the analysis employed in comparison of the subject's and comparables' income. No explanation could be found for the large adjustments in the income approach section of the Appraisal Report.

VIII.

Respondent previously completed an appraisal assignment for the subject six (6) years ago when this hotel was a Holiday Inn. The sketch in the appraisal report reflects "Holiday Inn" but no verified documentation is included to show that there have been no subsequent changes to the Gross Building Area of this hotel as concluded by Respondent.

IX.

Respondent provides no explanation or analysis to support the weighted average concluded for each approach as reflected in the Reconciliation section of the Appraisal Report. The cost approach was concluded at only 10%, sales comparison approach at 25% and the income approach at 65%. Respondent included no documentation in the work file to support this determination.

CONCLUSIONS OF LAW

X.

Respondent, Jerry Gann Brewer, admits and agrees by consent with the Board, that the above and foregoing described actions and conduct violated Miss. Code Ann. Sections 73-34-35(1)(I) and 73-34-37, as amended, and more specifically the Years 2012-2013 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(b), 1-2(e)(i),(h), 1-4(a),(b)(i),(ii),(c)(ii)(iii), 2-1(b), and 2-2(a)(iii),(vii) and (viii), which state 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 ...:

(I) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; 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 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...

2012-2013 USPAP REQUIREMENTS

RECORD KEEPING RULE: An appraiser must prepare a workfile for each appraisal, or appraisal review, or appraisal consulting 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 documentation...

SCOPE OF WORK RULE: For each appraisal, appraisal review, and appraisal consulting 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
3. 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, appraisal review or appraisal consulting 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 RULE 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:

(b) not commit a substantial error of omission or commission that significantly affects an appraisal;...

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

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 1-4: 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 anew of the improvements (if any)...

(c) When an income approach is necessary for credible assignment results, an appraiser must:

- (ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;
- (iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount;

STANDARD RULE 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:

(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 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.

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

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

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

DISCIPLINARY ORDER

XI.

The Board, by Respondent **JERRY GANN BREWER'S** agreement and consent, hereby orders and imposes discipline as follows:

A) Respondent is placed on probation for a period of six (6) months, effective upon the date of the execution of this Consent Order by the Board. During this probation period, Respondent must submit to the Board, by the first business day of each month, a log of all appraisals performed in the preceding month, which appraisals shall be subject to the review of the Board.

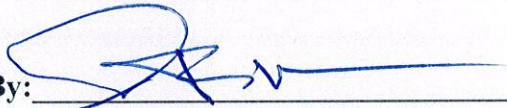
- B) Respondent must complete a fifteen (15) hour *2014-2015 National USPAP* course and pass the accompanying examination within one hundred and eighty (180) days of the date of this Consent Order.
- C) Respondent must complete a four (4) hour *Work File* course within one hundred and eighty (180) days of the date of this Consent Order.
- D) Respondent must complete a thirty (30) hour Qualifying Education Course concerning *General Report Writing and Case Studies*, and pass any accompanying examination, if applicable, within one hundred and eighty (180) days of the date of this Consent Order.
- E) The Board Staff recommends that the Respondent complete the mandated courses in a classroom environment, if available. The credit hours generated by the successful completion of the mandated courses may not be used to satisfy the twenty-eight (28) hours of continuing education, but can be used toward supervisor education.
- F) Respondent expressly agrees that if he fails to deliver to the Board Administrator evidence that he has successfully completed all of the required courses set forth herein, including evidence of passing grades on all of the accompanying exams, within the required time periods, such failure shall constitute grounds for additional disciplinary action by the Board without further notice to Respondent.
- G) This disciplinary action shall be reported to and posted with applicable and appropriate authorities including the Board's newsletter and/or website.
- H) 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.
- I) Respondent, as evidenced by his signature hereto, 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

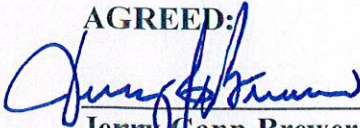
any of its terms. He expressly waives any legal objections that may otherwise be available to him as to the Board taking this matter up preliminarily for purpose of considering and voting on whether or not to enter into this Consent Order.

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

SO ORDERED, this the 3rd day of Dec., 2014.

MISSISSIPPI REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD

By: 
Gerald Barber, Chairperson
For and on Behalf of the Board

AGREED:

Jerry Gann Brewer
Date 12/3/14

