

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

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

COMPLAINANT

VS.

CASE NO.: 26-1709

**MICHAEL T. ALLEN, APPRAISER,
LICENSE NO: RA-1005**

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, Michael T. Allen, License No. RA-1005 (sometimes hereinafter "Respondent" or "Allen"). This action is before the Board as the result of Respondent's appraisal of real property located at 228 Trace Drive, Pearl, Mississippi 39208. By entering into this Consent Order, Respondent Allen 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 in 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 §§73-34-1, *et seq.*, Miss. Code Ann. (1972), as amended. The Board, pursuant to this authority, has full, complete and proper jurisdiction over the parties and the subject matter herein.

II.

Respondent Michael T. Allen is an adult resident of Mississippi whose last known address of record with the Board is 33 Trystan Drive, Petal, Mississippi 39465. Respondent is the holder of a real estate appraiser's license, No. RA-1005, 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 July 8, 2017, Respondent Allen performed an appraisal of property located at 228 Trace Drive, Pearl, Rankin County, Mississippi 39208, and issued an Appraisal Report.

IV.

Respondent did not provide verified documentation or analysis in the work file for certain information stated in the referenced Appraisal Report. The work file contains very limited verified documentation. No cost approach documentation is contained in the work file to show cost approach analysis or conclusions. There is no apparent explanation for the difference in market value concluded (\$45,000) vs. the concluded value for the cost approach (\$86,880), an unexplained \$41,880 difference in the two values for the respective approaches. There was no verified documentation reflecting

the analysis upon which the appraiser concluded site value.

V.

Identified errors in the Appraisal Report included, but were not limited to the following:

- In Addendum, Respondent stated “Carport/garages at \$1500 per stall” but Respondent made a \$5,000 adjustment when the adjustment apparently should have been concluded at only \$3,000;
- In Addendum, adjustments for bedrooms were reflected as \$2,000, bathrooms at \$1,000, and half bathrooms at \$500 but each comparable analyzed had the same number of bedrooms as the subject so therefore no adjustment warranted;
- In Addendum, adjustments as described for screened porches, decks, fireplaces, fences and sheds along with barns are not reflected on the sales comparison approach of the Appraisal Report;
- In Addendum, Respondent stated “age adjustments are not made in lieu of any condition adjustments.” However, no adjustments were made in either section of the Appraisal Report;
- It is unclear where did Respondent obtained the square footage information when no tax records could be located in the work file;
- Due to exterior-only inspection, appraiser claimed extraordinary assumption, but failed to disclose or explain the assumption.

VI.

Respondent did not follow the requirements specified in the “Client Order Request.” Order Request required Respondent to physically visit each comparable and take original photos of the exterior of each. Respondent stated in the Appraisal Report he did personally take each photo, but they do appear to be MLS photos. Respondent should have taken a different angle to prove that he physically visited the comparables.

When the contradiction between the appraiser's representation and the Order Request was brought to the appraiser's attention and revision requested, the appraiser refused and stated that "Lender's request for appraiser to personally view the sales is moot." Appraiser failed to provide justification for failure to follow the assignment request which he voluntarily accepted and for which he was subsequently engaged.

VII.

Respondent stated no method and provided no verified documentation or analysis in support of the conclusion for the cost approach to value stated in the Appraisal Report. Respondent identified the use of "local contractors" as the source for replacement cost as new, but provided no further comment or analysis. The Appraisal Report reflects Respondent reached a conclusion as to site value as "based on local land sales in the county and surrounding counties." Rankin, Madison and Hinds Counties have a very wide range of values when it comes to site value. Respondent had no verified land sales in his work file to support his conclusions for the site value as reflected in the Appraisal Report.

CONCLUSIONS OF LAW

VIII.

Respondent, Michael T. Allen, admits and agrees by consent with the Board that the above and foregoing described acts and omissions constitute violations of Miss. Code Ann. Sections 73-34-35(1)(I) and 73-34-37, as amended, and more specifically the Years 2016-2017 Uniform Standards of Professional Appraisal Practice (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),(g),(h),

1-4(a),(b)(i)(ii)(iii), and 2- 2(a)(iii)(vii)(viii)(xi), 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 ...:

(D) 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...

2016-2017 USPAP REQUIREMENTS

ETHICS RULE: An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.

Conduct: An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

An appraiser:

- must not perform an assignment in a grossly negligent manner.

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

The work file must include:

- the name of the client and the identity, by name or type, of any other intended users;

- 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 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
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 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:

- client and any other intended users;
- intended use of the appraiser's opinions and conclusions;

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 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.

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 1-2: 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;
- (g) identify any hypothetical condition necessary in the assignment;

- (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.
- (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 (accrued depreciation).

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 2-2: 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 analysis, opinions, and conclusions of the sales comparison approach, cost approach, or income approach must be explained;
 - ***
 - (xi) Clearly and Conspicuously:
 - State all extraordinary assumptions and hypothetical Conditions; and
 - State that their use might have affected the assignment results;
 - ***

DISCIPLINARY ORDER

IX.

The Board, by Respondent **MICHAEL T. ALLEN'S** agreement and consent, hereby orders and imposes discipline as follows:

- A)** Respondent must complete a fifteen (15) hour *2018-2019 National USPAP* course and pass the accompanying examination within one hundred and eighty (180) days of the date of this Consent Order.
- B)** Respondent must complete a four (4) hour Education Course concerning *Appraisal Practice of Manufactured Housing* and pass any accompanying

examination, if applicable, within one hundred and eighty (180) days of the date of this Consent Order.

C) Respondent must complete a seven (7) hour Education Course concerning *Advanced Work File* and pass any accompanying examination, if applicable, within one hundred and eighty (180) days of the date of this Consent Order.

D) Respondent must complete a fourteen (14) hour Educational Course concerning *Residential 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 required twenty-eight (28) hours of continuing education but can be used towards supervisor education.

F) Respondent expressly agrees that if he fails to deliver to the Board Administrator evidence that he has successfully completed all the required courses set forth herein, including evidence of passing grades on all 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 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 to enter 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 26th day of April, 2018.

MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

By: [Signature]
NORMAN A. CANNADY, JR., Chairperson
For and on Behalf of the Board

AGREED:

[Signature]
MICHAEL T. ALLEN

03/28/2018
DATE

