Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
December 7 & 8, 2009
General Meeting

Chair Joni Herndon called the meeting of the Florida Real Estate Appraisal Board to order at approximately 8:40 a.m., in Orlando, Florida, on this Monday, the 7th day of December, 2009.

Member Oretto offered the invocation and Member Wright led the Pledge of Allegiance. The Chair introduced the members present: Vice-Chair Michael Rogers, Cynthia Wright, Susan Dailey and Evalyn “Fray” Oretto. Mary Ellen Clark, Assistant Attorney General, appeared as counsel for the Board. With five of the five appointed members present, Ms. Clark declared a quorum present.

Division staff present at the meeting: Thomas O’Bryant, Jr., Division Director and Executive Director for the Board; Bradford Koshland, Chief, Bureau of Enforcement; James Harwood, Chief Attorney; Chris Lindamood, Robert Minarcin, Nicole McLaren, and Dana Moss, Senior Attorneys; Steven Pitts and Justin Moore, Investigation Specialists; Beverly Ridenaure, Government Analyst II; JoEllen Peacock, Education Coordinator; Peter Patterson, Government I. Vicki Ledbetter, Appraisal Subcommittee Policy Manager was also present. American Court Reporting, Inc (407.896.1813) provided court reporter services.

Approval of the Minutes

Upon motion by Vice-Chair Rogers, with second by Member Wright, the Board unanimously approved the Minutes of the October 5 & 6, 2009 General Meeting as corrected.

Legal Appearance Docket:

The Board addressed the Legal Appearance Docket, hearing forty-seven docket items and approving the withdrawal or continuance of four docket items. The Board’s decisions on these matters are as follows:

(1) Item 17 – Case No. 2008059353 Omar D. Hernandez – Settlement Agreement

Omar D. Hernandez was present and was represented by counsel, James O. Sutton. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2008) Conduct Section to the Ethics Rule, Recordkeeping Section of the Ethics Rule; Rules 1-1(a) and (c), 1-4(b), 2-1(a) and (b), 2-2(b)(viii) and Florida
Statutes 475.624(14); Florida Administrative Code Rule 61J1-7.001(2)(c) and Florida Statutes 475.622(1) and 475.624(4) failing to utilize and display the appropriate appraiser designation in the Report.

Member Oreto moved to approve the settlement agreement. Upon second by Member Dailey, the motion carried unanimously.

**Penalty imposed:** Dismiss Counts I, II, IV, VI; $1,000 fine, $999.90 costs; 18 month probation, attend 2 two-day FREAB meeting, 30 hours education including 15 hours USPAP.

**(2) Item 47 – Case No. 2008053890 Steven L. Sculley – Settlement Agreement**

Steven Sculley was present and was represented by counsel, Steven W. Johnson. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Conduct Section of the Ethics Rule, Recordkeeping section of the Ethics Rule, Rules 1-1(a) and (c), 1-4(b), 1-5(b), 2-1(a) and (b), 2-2(b)(vi) and Florida Statutes 475.624(14); Florida Administrative Code Rule 61J1-4.010(6) and Florida Statutes 475.624(4) by failing to keep and maintain trainee experience log and failure to include all of the required information on the appraisal experience log as a registered trainee real estate appraiser and Florida Statutes 475.629 and 474.624(4) by failing to retain records for at least five years of any contracts engaging the appraiser’s services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal reports.

After discussion, a motion was made by Member Oreto, seconded by Member Dailey and carried unanimously to adopt the Settlement Agreement.

**Penalty imposed:** Dismiss Counts II, V and IX; $3,000 fine; $1056 costs; 18 month probation, attend 2 two-day FREAB meeting, 45 hours of CE to include 15 hours USPAP.

**(3) Item 34 – Case No. 2008040295 James M. Davis – Settlement Agreement**

James M. Davis was present and was represented by counsel, Daniel Villazon. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-5(a), Supplemental Standards, 1-6, 2-2(b)(iii), and Florida Statutes 475.624(14).

After discussion, Member Dailey moved to approve the Settlement Agreement. Member Wright seconded the motion which carried unanimously.

**Penalty imposed:** Dismiss Counts II, III and IV; $2000 fine; $1000 costs; 1 year probation, attend 1 two-day FREAB meeting, 15 CE; not supervise trainees for 30 days.
(4) Item 31 – Case No. 2008044273 Paul Arnold Canals – Settlement Agreement

Paul Arnold Canals was present and was represented by counsel, Manuel A. Blanco. Member Wright was recused due to participation on the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-5(a), Supplemental Standards Rule, 1-6, 2-2(b)(viii), Record Keeping Section of the Ethics Rule, and Florida Statutes 475.624(14).

After discussion, a motion was made by Member Oreto, seconded by Member Dailey to reject the proposed Settlement Agreement. The motion carried unanimously. Chair Herndon proposed a counter offer. Member Oreto seconded the motion which carried. Mr. Rogers voted against the motion. The Respondent accepted a Counter Offer at the meeting as follows:

Penalty imposed: Dismiss Counts I and II; $3,000 fine; $569.25 costs; 18 months probation, attend 2 two-day FREAB meetings; satisfactorily complete 45 hours of CE, to include a 15-hour USPAP course and a 30-hour, tested cost approach course.

(5) Item 45 – Case No. 2008043784 Christine T. Childers – Settlement Agreement

Christine T. Childers was not present, but was represented by counsel, Steven W. Johnson. Vice Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Conduct Section of the Ethics Rule, Recordkeeping section of the Ethics Rule, Rules 1-1(a) and (c), 1-4(b), 1-5(b), 2-1(a) and (b), 2-2(b)(vi), and Florida Statutes 475.624(14); Florida Administrative Code Rule 61J1-4.010(6) and Florida Statutes 475.624(4) by failing to keep and maintain her appraisal experience log and failure to include all of the required information on her appraisal experience log as a registered trainee real estate appraiser; and Florida Statutes 475.629 and 475.624(4) by failing to retain records for at least five years of any contracts engaging the appraiser’s services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal reports.

Member Dailey moved to approve the Settlement Agreement and Member Oreto seconded the motion for discussion. Following discussion, the motion failed with a tie vote of two for and two against the motion. No action was taken.

Following additional discussion, Member Dailey moved to approve the Settlement Agreement. Member Oreto seconded and the motion carried unanimously.

Penalty imposed: Dismiss Counts II, V, and IX; $1,000 fine; $1056 costs; 18 month probation, attend 2 two-day FREAB meeting; 15-Hour USPAP course.
(6) Item 15 – Case No. 2008062952 Alexander Yashin – Settlement Agreement

Alexander Yashin was not present, but was represented by counsel, Steven W. Johnson. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Conduct Section of the Ethics Rule, Recordkeeping Section of the Ethics Rule, Rules 1-1(a) and (c), 1-4(b), 1-5(b), 1-6(a), 2-1(a) and (b), 2-2(b)(viii) and Florida Statutes 475.624(14); Florida Statutes 475.6223 by failing to register, in writing, to the Department each firm or business name and address from which the appraiser operates in

the performance of appraisal services; Florida Statutes 475.6221 and 475.624(4) by failing to have the same business address as trainees under his supervision; Florida Administrative Code 61J1-4.010(2) and Florida Statutes 475.624(4) by failing to provide training and direct supervision of the trainee appraiser.

Following additional discussion, Member Wright moved to approve the Settlement Agreement. Member Dailey seconded which carried unanimously.

Penalty imposed: Dismiss Counts II, V, and IX; $1,500 fine, $330 costs; 30 day suspension of license; 12 months probation, attend 2 two-day FREAB meeting, 30 hours additional education which shall include a Residential Report Writing course as well as the 15 hour USPAP course; supervise no trainees.

(7) Item 6 – Case No. 2008062957 Arken Arshidinov – Settlement Agreement

Arken Arshidinov was not present but was represented by counsel, Steven W. Johnson. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) the Conduct Section of the Ethics Rule, Recordkeeping Section of the Ethics Rule, Rules 1-1(a) and (c), 1-4(b), 1-5(b), 1-6(a), 2-1(a) and (b), 2-2(b)(viii), and Florida Statutes 475.624(14); Florida Statutes 475.6223 by failing to register in writing to the Department each firm or business name and address from which the appraiser operates in the performance of appraisal services.

After discussion, Member Wright moved to adopt the proposed Settlement Agreement. Member Oreto seconded the motion which carried unanimously.

Penalty imposed: Dismiss Counts II, V, X and IX; $1,500 fine, $313.50 costs; 1 year probation, attend 2 two-day FREAB meetings and 30 hours of education to include 15 hours of National USPAP.
(8) Item 36 – Case No. 2007051437 Andrew Meltzer – Hearing Regarding Request for Reconsideration

Andrew Meltzer was present and was represented by counsel, Heather Rutecki. As a Petition for Reconsideration of a previously heard case, all members participated in the discussion.

Mr. Minarcin represented the Department and presented the case to the Board.

After discussion, a motion was made, seconded and carried unanimously to grant the Reconsideration of the previously denied Petition for Reconsideration. The previously filed Final Order was not considered.

**Action Taken:** Petition for Reconsideration was granted.

(9) Item 37 – Case No. 2008059294 Roberto Velasquez – Settlement Agreement

Roberto Velasquez was not present, but was represented by counsel, Steven W. Johnson. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2008) Record Keeping Section of the Ethics Rule, Conduct Section of the Ethics Rule, Rules 1-1(a), (b), and (c), 1-4(b), 1-5(a) and (b), 2-1(a) and (b), 2-2(b)(viii) and Florida Statutes 475.624(14); Florida Statutes 475.624(2) by being guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction.

After discussion, a motion was made by Member Dailey, seconded by Member Oreto to reject the proposed Settlement Agreement. The motion carried unanimously.

Following additional discussion, Member Dailey moved to amend the original Settlement Agreement to include 30 days suspension. Member Oreto seconded the motion which carried unanimously to impose the following:

**Penalty imposed:** Dismiss Counts I, III, IX; $1,500 fine; $752.40 costs; 30 days suspension; 18 months probation; attend 2 two-day FREAB meeting, satisfactorily complete 60 hours of education to include 15 hours USPAP and 45 hours of tested education; no supervision of registered trainee appraisers during probationary period.

(10) Item 41 – Case No. 2008064941 Rafael Griego – Settlement Agreement

Rafael Griego was not present, but was represented by counsel, Steven W. Johnson. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Rules 1-
1(c), 1-4(b), 2-1(a) and (b), 2-2(b)(viii) and Florida Statutes 475.624(14); Florida Administrative Code Rule 61J1-7.001(2)(c) and Florida Statutes 475.622(1) and 475.624(4) by failing to utilize and display the appropriate appraiser designation in the Report.

Upon motion by Member Wright with second by Member Oreto, the Board voted unanimously to accept the proposed Settlement Agreement.

**Penalty imposed:** Dismiss Counts I and IV; $1,500 fine; $313.50 costs; 18 month probation with early termination language; attend 2 two-day FREAB meeting; 30 hours of CE to include 15 hours USPAP.

**(11) Item 43 – Case No. 2007067766 Richard Rodriguez – Settlement Agreement**

Richard Rodriguez was not present, but was represented by counsel, Steven W. Johnson. Member Wright was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(2) by being guilty of fraud, culpable negligence or breach of trust in any business transaction; Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-1(a), (b), and (c), 1-5(a), 2-1(a) and (b), 2-3, and Florida Statutes 475.624(14).

Mr. Rogers moved to reject the proposed Settlement Agreement. With second by member Dailey, the motion carried unanimously.

**Action taken:** Settlement Agreement rejected. Suggested counter offer of Dismissal Counts I, III, and VI; $3000 fine; $577.50 costs; 60 day suspension; 12 month probation, attend 2 two-day FREAB meeting, satisfactorily complete 45 hours of education to include 15 hours USPAP.

**(12) Item 25 – Case No. 2008053964 Joaquin E. Jimenez – Settlement Agreement**

Joaquin E. Jimenez was not present, but represented by counsel, Steven W. Johnson. Ms. Wright was recused due to participation on the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-5(a), 1-4(a), 1-6, Supplemental Standards Rule and Florida Statutes 475.624(14); Florida Administrative Code Rule 61J1-8.001(8)(b) and Florida Statutes 475.624(4).

After discussion, a motion was made by Vice-Chair Rogers to reject the proposed Settlement Agreement. Member Oreto seconded the motion, which carried unanimously.

**Action taken:** Settlement Agreement rejected. Suggested counter offer includes: Dismissal of Counts II and III; $1,122.00 costs; $2500 fine; 60 day – 12 month suspension; attend 2 two-day FREAB meetings, completion of 45 hours of tested appraisal education.
(13) Item 29 – Case No. 2008053964 Raul Pimentel – Settlement Agreement

Raul Pimentel was not present, but was represented by counsel, Steven W. Johnson. Chair Herndon was recused due to participation on the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-5(a), and (b), 2-2(b)(viii), 2-1(a) and (b), and Florida Statutes 475.624(14); Florida Statutes 475.623 and 475.624(1) by failing to furnish, in writing, to the department each business address from which he operates in the performance of appraisal services.

Following discussion, Member Dailey moved to approve the proposed Settlement Agreement. Member Oreto seconded the motion, which carried. Vice-Chair Rogers voted against the motion.

Penalty imposed: Fine $1,000; $1,122.00 costs; attend 2 two-day FREAB meetings and attend 30 hours of continuing education appraisal courses.

(14) Item 1 – Case No. 2008010340 Miguel Angel Febles– Hearing Not Involving Disputed Issues of Material Fact

Miguel Angel Febles was not present, but was represented by Counsel Steven W. Johnson. Ms. Wright was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Rules 1-1(a), (b) and (c), 1-4(a) and (b), 1-5(a) and (b), 2-1(a) and (b), and 2-2(b)(viii), 2-3, and Florida Statutes 475.624(14).

Upon motion by Member Dailey, with second by Vice Chair Rogers the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence.

Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Compliant. Vice Chair Rogers seconded the motion, which carried unanimously.

Vice Chair Rogers moved to impose a penalty of $3,000 fine; $1,089 costs; 60 day suspension; 60 hours of tested education; one year probation with no early termination; no supervision of registered trainee appraisers during probationary period. The motion failed due to lack of a second.

With motion by Member Dailey and second by Member Oreto the Board voted unanimously to adopt the following penalty:
Penalty imposed: $2,000 fine; $1,089 costs; 60 day suspension; 60 hours of tested education; one year probation with no early termination; no supervision of registered trainee appraisers during probationary period.

(15) Item 12 – Case No. 2008039034 Miguel Angel Febles – Hearing Not Involving Disputed Issues of Material Fact

Miguel Angel Febles was not present, but was not represented by counsel, Steven W. Johnson. Ms. Herndon was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Scope of Work Rule, Rules 1-1(a), (b), and (c), 1-4(a) and (b), 1-5(a) and (b), 2-1(a) and (b), and 2-2(b)(viii) and Florida Statutes 475.624(14); Florida Administrative Code Rule 61J1-7.001(1) and (2)(c), and Florida Statutes 475.622 and 475.624(4) by failing to use proper designation.

Member Dailey moved to impose Costs of $561.00 and one year suspension to run subsequent to the previously imposed suspension. Member Oreto seconded the motion, which carried unanimously.

Following additional discussion, Member Wright moved to reconsider previous motion. Member Dailey seconded the motion.

Upon motion by Member Dailey, with second by Member Wright the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence.

Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Compliant. Member Wright seconded the motion, which carried unanimously.

Member Dailey moved to impose Costs of $561.00 and one year suspension to run subsequent to the previously imposed suspension; costs to be paid prior to re-instatement. Member Oreto seconded the motion, which carried unanimously.

Penalty imposed: Costs of $561.00 and one year suspension to run subsequent to the previously imposed suspension.

(16) Item 16 – Case No. 2008000980 Miguel Angel Febles – Hearing Not Involving Disputed Issues of Material Fact

Miguel Angel Febles was not present, but was represented by counsel, Steven W. Johnson. Ms. Wright was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Competency Rule, Rules 1-1(a), (b), and (c), 1-4(a)
and (b), 1-5(a) and (b), 1-6(a) and (b), 2-1(a) and (b), and 2-2(b)(viii), 2-3 and Florida Statutes 475.624(14); Florida Statutes 475.624(2) by being guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence or breach of trust in any business transaction.

Upon motion by Member Dailey, with second by Member Oreto the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence. Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Complaint. Member Oreto seconded the motion, which carried unanimously.

After discussion, Vice Chair Rogers moved to impose Costs of $867.90; one year suspension to run subsequent to the previously imposed suspension; 100 hours of tested education; attend 1 two-day FREAB meeting. The motion failed due to a tie vote.

Member Dailey moved to impose Costs of $867.90; 22 month suspension to run subsequent to the previously imposed suspension; 100 hours of tested education; attend 1 two-day FREAB meeting. Vice-Chair Rogers seconded the motion which carried unanimously.

Penalty imposed: Costs of $867.90; 22 month suspension to run subsequent to the previously imposed suspension; 100 hours of tested education; attend 1 two-day FREAB meeting.

(17) Item 40 – Case No. 2008044884 Jorge Fortich, Jr. – Settlement Agreement

Jorge Fortich, Jr. was not present, but was represented by counsel, Elizabeth Merceret. Ms. Wright was recused due to participation on the probable cause panel.

Mr. Cunningham represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(16) by failing to communicate an appraisal without good cause; violation of Uniform Standards of Professional Appraisal Practice (2008) Recordkeeping Section of the Ethics Rule and Florida Statutes 475.624(14).

Following discussion, Member Dailey moved to accept the proposed Settlement Agreement, with second by Member Oreto, the motion carried unanimously.

Penalty imposed: Dismiss Count I; $1,000 fine; $742.50 costs; 12 months probation; 15-hour USPAP course; no supervision of registered trainee appraisers during probationary period; attend 1 two-day FREAB meeting.

(18) Item 35 – Case No. 2008061499 Dario Ruiz – Settlement Agreement

Dario Ruiz was present, but not represented by counsel. Chair Herndon was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards
of Professional Appraisal Practice (2006) Rules 1-1(a) and (b), 1-4(a), 2-1(a) and (b), 2-2(b)(viii) and Florida Statutes 475.624(14).

Following discussion Member Dailey moved to approve the proposed Settlement Agreement. Member Oreto seconded the motion, which carried with a vote of three to one.

Penalty imposed: Dismiss Counts III and V; $874.50 costs; 18 months probation, satisfactorily complete 20 hours continuing education to include sales comparison analysis.

(19) Item 46 – Case No. 2008001758 and 2008063509 Dario Ruiz – Settlement Agreement

Dario Ruiz was present, but not represented by counsel. Chair Herndon and Ms. Dailey were recused due to participation on the probable cause panels.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(2) by being guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction; Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Conduct Section of the Ethics Rule; Scope of Work Rule; Rules 1-1(a), (b), and (c), 1-2(e)(i), 1-4(a), 1-6(a), 2-1(a) and (b), and 2-2(b)(i), (vii) and (viii) and 2-3, and Florida Statutes 475.624(14).

After discussion Member Oreto moved to reject the proposed Settlement Agreement. Member Wright seconded the motion, which carried unanimously.

Member Wright moved to move to make a counter offer on the stipulation. Member Oreto seconded the motion. The motion carried with Mr. Rogers voting against the motion. The counter offer was accepted on the record at the meeting.

Penalty Imposed: Dismissal of Counts II through XI of 2008001758 and II through IX of 2008063509; $1000 fine; $2000 costs; 18 months probation, attend 1 two-day FREAB meeting, 60 hours of tested education to include coverage of the cost approach and land valuation.

(20) Item 11 – Case No. 2008047818 Santiago Cruz – Settlement Agreement

Santiago Cruz was present, but not represented by counsel. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-1(a) and (b), 1-4(a), 1-5(a), 2-1(a) and (b), 2-2(b), and Florida Statutes 475.624(14).

After discussion, Member Dailey moved to accept the proposed Settlement Agreement as amended. Member Wright seconded the motion, which carried unanimously.
**Penalty imposed:** Dismiss Counts I, III, V, and VI; $500, $404.25 costs; 1 year probation, attend 1 two-day FREAB meeting.

(21) Item 38 – Case No. 2008052089 Gregory A. Cross– Hearing Not Involving Disputed Issues of Material Fact

Gregory Cross was present, but was not represented by counsel. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; Florida Administrative Code Rule 61J1-7.001(2)(c) and Florida Statutes 475.622(1) and 475.624(4), by failing to utilize and display the appropriate appraiser designation in the Report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Rules 1-1(c), 1-4(b), 1-5(a), 1-6(a), 2-1(a) and (b), and 2-2(b)(viii) and Florida Statutes 475.624(14).

Upon motion by Member Dailey, with second by Member Wright the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence.

Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Compliant. Member Wright seconded the motion, which carried unanimously.

Following discussion and upon motion by Member Oreto, with second by Member Dailey, the Board voted unanimously to impose the following penalty:

**Penalty imposed:** Dismiss counts I, VI, VII; $3000 fine; $693.00 Costs; attend two 2-day FREAB meetings; 60 hours of tested education; 18 months probation with early termination language.

(22) Item 39 – Case No. 2008052091 Helen S. Cross– Hearing Not Involving Disputed Issues of Material Fact

Helen S. Cross was present, but was not represented by counsel. Mr. Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; Florida Administrative Code Rule 61J1-7.001(2)(a), and Florida Statutes 576.622(1) and 475.624(4), by failing to utilize and display the appropriate appraiser designation in the Report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Rules 1-1(c), 1-4(b), 1-5(a), 1-6(a), 2-1(a) and (b), and 2-2(b)(viii) and Florida Statutes 475.624(14).

Upon motion by Member Dailey, with second by Member Wright, the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence.
Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Compliant. Member Wright seconded the motion, which carried unanimously.

Following discussion and upon motion by Member Dailey, with second by Member Wright, the Board voted unanimously to impose the following penalty:

**Penalty imposed:** Dismiss counts I, VI, VII; $1000 fine; Costs $676.50; attend one 2-day FREAB meeting; 30 hours of tested education; 18 months probation with early termination language.

(23) **Item 18 – Case No. 2008060917 William J. Lieber – Settlement Agreement**

William J. Lieber was present, but not represented by counsel. Ms. Herndon was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2008) Recordkeeping Section of the Ethics Rule, Rules 1-1(a), (b), and (c), 1-4(b), 2-1(a) and (b), 2-29(b)(viii) and Florida Statutes 475.624(14).

Member Dailey moved to accept the proposed Settlement Agreement. Member Oreto seconded the motion, which carried unanimously.

**Penalty imposed:** Dismiss Counts I, III, V, VI; $500 fine, $412.50 costs; 18 months probation, 15 hour USPAP course.

(24) **Item 5 – Case No. 2006054792 Glenn R. Greber – Hearing Regarding Request for a Modification of Final Order**

Glenn R. Greber was present, but was not represented by counsel. All members of the Board participated in the discussion of the previously filed Final Order.

Ms. Lindamood represented the Department and presented the case to the Board.

After discussion, Chair Herndon moved for suspension of license until fine and costs are paid and grant an extension of time until March 6, 2010 for completion of the education requirement as stated in the previously issued Final Order for this case. Member Wright seconded the motion which carried with a split vote.

**Action Taken:** License suspended until $3,000 fine and $511.60 costs are paid. Education must be completed by March 6, 2010. Department was instructed to not consider it to be a violation of a Final Order unless Respondent does not complete the payment and education by stated date.

(25) **Item 2 – Case No. 2007057763 Negasi S. Abraha – Hearing Regarding Request for an Extension of Time to Comply with Final Order**

Negasi S. Abraha was present, but was not represented by counsel. Mr. Rogers was recused due to participation on the probable cause panel.
Ms. Lindamood represented the Department and presented the case to the Board.

Member Dailey moved to grant Respondent’s request to remain on probation until August 2010 to allow for the payment of previously imposed fine. Member Wright seconded the motion which carried unanimously.

**Action Taken:** Licensee is on probation for an additional 9 months within which payment of fine and costs will be completed. Department was instructed to consider Respondent to be in violation of a Final Order if he does not complete the payments by stated date.

**(26) Item 30 – Case No. 2008046681 Beverly Jean Ryals – Settlement Agreement**

Beverly Jean Ryals was present, but not represented by counsel. Chair Herndon was recused due to participation in the probable cause panel.

Ms. Blakeman represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-4(a), 1-1(a), Competency Section of the Ethics Rule and Florida Statutes 475.624(14); Florida Statutes 475.624(10) by having been found guilty for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice which shows that she is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she may sustain a confidential relationship may not safely do so..

After discussion, Member Dailey moved to approve the proposed Settlement Agreement. Member Wright seconded the motion which carried with a split vote of 3 to 1.

**Penalty imposed:** Dismiss Counts II and IV; $610.50 costs; attend 15-hour USPAP course.

**(27) Item 3 – Case No. 2007057761 Felix Alphonso Gopie – Hearing Regarding Request for an Extension of Time to Comply with Final Order**

Felix Alphonso Gopie was not present, but was not represented by counsel. No members were recused.

Ms. Lindamood represented the Department and presented the case to the Board.

Member Dailey moved to grant Respondent’s request to remain on probation until August 2010 to allow for the payment of previously imposed fine. Member Wright seconded the motion which carried with a split vote. Vice-Chair Rogers voted against the motion.

**Action Taken:** Licensee is on probation for an additional 9 months within which payment of fine and costs will be completed. Department was instructed to consider Respondent to be in violation of a Final Order if he does not complete the payments by stated date.
(28) Item 4 – Case No. 2008045029 Carlos Alberto Perez – Hearing Regarding Request for an Extension of Time to Comply with Final Order

Carlos Alberto Perez was not present, and was not represented by counsel. Ms. Wright was recused due to participation on the probable cause panel.

Mr. Harwood represented the Department and presented the case to the Board.

Member Dailey moved to grant an extension of one year during probationary period to allow for the payment of previously imposed fine and costs. Member O'reto seconded the motion which carried with a split vote of 3 to 1. Vice-Chair Rogers voted against the motion.

Action Taken: Licensee is on probation for an additional 9 months within which payment of fine and costs will be completed. Department was instructed to not consider it to be a violation of a Final Order unless Respondent does not complete the payments by stated date.

(29) Item 7 – Case No. 2008067720 Carlos Manuel Insignares – Hearing Not Involving Disputed Issues of Material Fact

Action Taken: Withdrawn by Department

(30) Item 8 – Case No. 2009005491 Diane Carly Onan – Hearing Not Involving Disputed Issues of Material Fact

Action Taken: Withdrawn by Department

(31) Item 9 – Case No. 2008044293 David C. Sanner – Hearing Not Involving Disputed Issues of Material Fact

David C. Sanner was not present, and was not represented by counsel. Vice-Chair Rogers was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(1) by failing to furnish, in writing, within ten days, the department each business address from which he operates in the performance of appraisal services; Florida Statutes 475.624(18) by failing to notify the Department, in writing, of any change in the business location, or failed to fully disclose all business locations from which he or she operates as a registered trainee real estate appraiser; Florida Administrative Code Rule 61J1-7.008(2) and Florida Statutes 475.624(4) by failing to notify the Department, in writing, of the current mailing address and any change in the current mailing address, within ten days after the change, and Florida Statutes 475.626(1)(f) by having obstructed or hindered in any manner the enforcement of Chapter 475, Florida Statutes or the performance of any lawful duty by any person acting under the authority of Chapter 475, Florida Statutes.

Member Dailey moved to find the respondent was properly served the Administrative Complaint, but failed to exercise his right to a hearing, adopt the Findings of Fact and Conclusions of Law and move all materials into evidence. Member Wright seconded the motion, which carried unanimously.
After discussion, Member Wright moved to revoke the license of the Respondent. With second by Member Oreto, the motion carried unanimously.

**Penalty imposed:** Revocation

(32) **Item 10 – Case No. 2008067514 Scott L. Striebel– Hearing Not Involving Disputed Issues of Material Fact**

Scott L. Striebel was not present, and was not represented by counsel. Ms. Dailey was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(6) by having had a registration suspended, revoked, or otherwise acted against in any jurisdiction.

Member Wright moved to find the respondent was properly served the Administrative Complaint, but failed to exercise his right to a hearing, adopt the Findings of Fact and Conclusions of Law and move all materials into evidence. Member Oreto seconded the motion, which carried unanimously.

After discussion, Member Wright moved to revoke the license of the Respondent. With second by Member Oreto, the motion carried unanimously.

**Penalty imposed:** Revocation

(33) **Item 13 – Case No. 2006015639 Salvatore Anthony Romano– Hearing Not Involving Disputed Issues of Material Fact**

Salvatore Anthony Romano was not present, and was not represented by counsel. Chair Herndon and Ms. Dailey were recused due to participation on the probable cause panels.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2005) Rules 1-1(a), (b) and (c), 2-3, 1-4(a) and (b), 1-5(a), 2-1(a) and (b) and Florida Statutes 475.624(14); Florida Statutes 475.624(6) by having had his certification acted against; and Florida Statutes 475.629 and 475.624(4) by failing to retain records for at least five years of any contracts engaging the appraiser’s services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal reports; and Florida Administrative Code Rule 61J1-4.010(1) and Florida Statutes 475.624(4) by failing to supervise..

After discussion, Member Wright moved to refer this case to the Department of Administrative Hearings (DOAH). Member Oreto seconded the motion, which carried unanimously.

**Action taken:** Case referred to DOAH
(34) Item 42 – Case No. 2008058067 Steven A. Porcaro – Settlement Agreement

Steven A. Porcaro was not present, and was not represented by counsel. Ms. Herndon and Ms. Daily were recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(12) by obtaining or attempting to obtain a registration, license, or certification by means of knowingly making a false statement, submitted false information, refusing to provide complete information in response to an application question or engaging in fraud, misrepresentation, or concealment; Florida Administrative Code Rule 61J1-3.001(6)(b) by failing to disclose any civil proceeding pending against him on an application for licensure; Florida Statutes 475.624(6) by having had a registration suspended, revoked, or otherwise acted against in any jurisdiction.

After discussion, Member Wright moved to accept the proposed Settlement Agreement. Member Oreto seconded the motion which carried unanimously.

Penalty imposed: Dismiss Count I; $3,000 fine; $438.90 costs; 1 year probation, attend 2 two-day FREAD meeting, 7 hours education to include dealing with fraud or ethics.

(35) Item 14 – Case No. 2008051710 Eleonora Gutierrez– Hearing Not Involving Disputed Issues of Material Fact

Eleonora Gutierrez was not present, and was not represented by counsel. Ms. Dailey was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2005) Rules 1-1(a), (b), and (c), 1-4(a), 1-5(b), 2-1(a) and (b), and 2-2(b)(iii) and (viii) and Florida Statutes 475.624(14).

Member Oreto moved to find that the Respondent was properly served the Administrative Complaint and has waived her right to a hearing and move all case materials into evidence. Member Wright seconded the motion which carried unanimously.

After discussion, Member Oreto moved for revocation. The motion failed for lack of a second.

Following additional discussion, Vice-Chair Rogers moved to impose the following penalty, with second by Member Wright the motion carried unanimously adopt the following penalty:

Penalty imposed: $3500 fine; $983.40 costs; 60 hours or more tested education; one year suspension; attendance at two 2-day FREAD meetings; one year probation to pay fine and costs.

(36) Item 19 – Case No. 2008020729 Chad Turner – Settlement Agreement

Action Taken: Withdrawn by Department
(37) Item 20 – Case No. 2008011552 Chad Turner – Settlement Agreement

Action Taken: Withdrawn by Department

(38) Item 21 – Case No. 2009023929 and 2009023948 Jason A. Robertson – Hearing Not Involving Disputed Issues of Material Fact – Voluntary Relinquishment of License

Jason A. Robertson was not present, and not represented by counsel.

Ms. Lindamood represented the Department and presented the case to the Board.

After discussion, Member Dailey moved to accept the voluntary surrender and append the Investigative Summary. Member Oreto seconded and the motion carried unanimously.

Penalty imposed: Revocation.

(39) Item 22 – Case No. 2008046166 Charles E. Badell – Settlement Agreement

Charles E. Badell was not present, and not represented by counsel. Chair Herndon was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaints: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Florida Statutes 475.629 and 475.624(4), failure to retain records for at least five years of any contracts engaging the appraiser’s services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal reports.

Member Oreto moved to accept the proposed Settlement Agreement. Member Dailey seconded the motion which carried unanimously.

Penalty imposed: Dismiss Count II; $500 fine, $693 costs; 1 year probation, attend 1 two-day FREAB meeting.

(40) Item 44 – Case No. 2007003517 Kenneth Hugh Ardire – Hearing Regarding Request for Reconsideration

Kenneth Hugh Ardire was not present, and was not represented by counsel. Ms. Wright was recused due to participation on the probable cause panel.

Mr. Minarcin represented the Department and presented the case to the Board.

After discussion, Vice-Chair Rogers moved to deny the Request for Reconsideration. Member Oreto seconded the motion which carried unanimously.

Action Taken: Request denied.
Item 23 – Case No. 2007058049 Anthony Pena– Hearing Not Involving Disputed Issues of Material Fact

Anthony Pena was not present, and was not represented by counsel. Mr. Rogers was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Rules 1-1(a) and (b), 1-5(a) and (b), 1-6(a), and Florida Statutes 475.624(14); Florida Statutes 475.624(6) having had a certification or registration suspended, revoked, or otherwise acted against in any jurisdiction.

Member Oreto moved to find that the Respondent was properly served the Administrative Complaint and has waived his right to a hearing and move all case materials into evidence. Member Wright seconded the motion which carried unanimously.

After discussion, Member Wright moved to revoke the license. Member Oreto seconded the motion which carried unanimously.

Penalty imposed: Revocation.

Item 24 – Case No. 2008043082 David O. Battle, Jr.– Hearing Not Involving Disputed Issues of Material Fact

David O. Battle, Jr. was not present, and was not represented by counsel. Mr. Rogers was recused due to participation on the probable cause panel.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Conduct Section of the Ethics Rule, Rules 1-1(a) and (b), 1-4(a) and (b)(i) and (ii), 1-5(a) and (b), 106(a), 2-1(a) and (b), and 2-2(b)(viii) and Florida Statutes 475.624(14); Florida Statutes 475.626(1)(f) by having obstructed or hindered in any manner the enforcement of Chapter 475, Florida Statutes or the performance of any lawful duty by any person acting under the authority of Chapter 475, Florida Statutes; Florida Statutes 475.624(2) by being guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence or breach of trust in any business transaction; Florida Statutes 475.624(17) by accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined result, analysis, or opinion.

Upon motion by Member Wright, with second by Member Dailey the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint and move all case materials into evidence.

Member Dailey moved to adopt the Conclusions of law as contained in the Administrative Compliant. Member Wright seconded the motion, which carried unanimously.
After discussion, Member Wright moved to revoke the license. Member Oreto seconded the motion which carried unanimously.

**Penalty imposed:** Revocation.

(43) Item 26 – Case No. 2009016081 Juan Antonio Fernandez – Hearing Not Involving Disputed Issues of Material Fact – Voluntary Relinquishment of License

Juan Antonio Fernandez was not present, and was not represented by counsel.

Mr. Harwood represented the Department and presented the case to the Board.

After discussion, Member Wright moved to accept the voluntary surrender and append the Investigative Summary. Member Dailey seconded and the motion carried unanimously.

**Penalty imposed:** Revocation.

(44) Item 27 – Case No. 2009030526 and 2009030536 Ramon Quintero, Jr. – Hearing Not Involving Disputed Issues of Material Fact – Voluntary Relinquishment of License

Ramon Quintero, Jr. was not present, and was not represented by counsel.

Mr. Harwood represented the Department and presented the case to the Board.

After discussion, Member Wright moved to accept the voluntary surrender and append the Investigative Summary. Member Dailey seconded and the motion carried unanimously.

**Penalty imposed:** Revocation.

(45) Item 28 – Case No. 2009030536 and 2009030526 Michael Gayoso – Hearing Not Involving Disputed Issues of Material Fact – Voluntary Relinquishment of License

Michael Gayoso was not present, and was not represented by counsel.

Mr. Harwood represented the Department and presented the case to the Board.

After discussion, Member Wright moved to accept the voluntary surrender and append the Investigative Summary. Vice-Chair Rogers seconded and the motion carried unanimously.

**Penalty imposed:** Revocation.

(46) Item 32 is VOID.

(47) Item 33 – Case No. 2008005686 Sylvia Dee Gomez – Hearing Not Involving Disputed Issues of Material Fact

Sylvia Dee Gomez was not present, and was not represented by counsel. Mr. Rogers was recused due to participation on the probable cause panel.
Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2006) Recordkeeping Section of the Ethics Rule, Rules 1-1(a), (b) and (c), 2-1(a) and (b), 1-2(e(i), 1-4(a), 1-5(a), 2-2(b)(iii), (vii), and (viii) and Florida Statutes 475.624(14).

Upon motion by Member Dailey, with second by Member Wright the motion carried unanimously to find that there are no disputed issues of material fact, adopt the Findings of Fact as alleged in the Administrative Complaint, move all case materials into evidence and adopt the Conclusions of law as contained in the Administrative Compliant. Member Wright seconded the motion, which carried unanimously.

Following discussion and upon motion by Member Wright, with second by Member Oreto, the Board voted unanimously to impose the following penalty:

**Penalty imposed:** $2,000 Fine; $597.30 Costs; one 2-day FREAB meeting; one year probation within which to pay all fines and costs.

**Meeting Recessed**

Noting that the Legal Docket will be continued on Tuesday, December 8, 2009 at 8:30 a.m., Chair Herndon recessed the meeting at approximately 5:15 p.m.

**Tuesday, December 8, 2009**

Chair Joni Herndon reconvened the meeting of the Florida Real Estate Appraisal Board at approximately 8:40 a.m., in Orlando, Florida, on this Tuesday, the 8th day of December 2009.

Chair Herndon offered the invocation and Vice-Chair Rogers led the Pledge of Allegiance. The Chair introduced the members present: Cynthia Wright, Susan Dailey, and Evalyn “Fran” Oreto. Vice-Chair Michael Rogers had an excused absence. Mary Ellen Clark, Assistant Attorney General, appeared as counsel for the Board. With five members of the five appointed members present, Ms. Clark declared a quorum present.

Division staff present at the meeting: Thomas O’Bryant, Jr., Division Director and Executive Director for the Board; James Harwood, Chief Attorney; Bradford Kosland, Chief, Bureau of Enforcement; Chris Lindamood, Nicole McLaren, and Dana Moss, Senior Attorneys; Fred Clanton, Sara Kimming, Brian Piper, Investigations Supervisors; Steven Pitts, Justin Moore, Investigations Specialists; JoEllen Peacock, Education Coordinator; Denise Johnson, Operations Management Consultant; Beverly Ridnauer, Government Analyst II; Peggy Hanna, Peter Patterson, Government Analyst I. Director O’Bryant introduced Appraisal Subcommittee Policy Manager, Vicki Ledbetter. American Court Reporting (407.896.1813) provided court reporter services.
Legal Appearance Docket Continued

(1) Item 48 – Case No. 2007006618, Miguel A. Murciano – Recommended Order

Miguel A. Murciano was not present, but was represented by counsel, Steven W. Johnson. Vice-Chair Rogers and Member Daley were recused due to participation on the probable cause panels.

Ms. Lindamood represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes 475.624(15) by having failed to exercise reasonable diligence in developing an appraisal report; violation of Uniform Standards of Professional Appraisal Practice (2005) Rules 1-1(a), (b), and (c), 2-1(a), and 2-2(b)(ix) and Florida Statutes 475.624(14); and Florida Statutes 475.629 and 475.624(4) by failing to retain records for at least five years of any contracts engaging the appraiser’s services, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing appraisal reports.

Upon motion by Member Wright to accept the Findings of Fact and Conclusions of Law contained within the Recommended Order and adopt the Recommended Penalty, with second by Member Oreto the motion carried unanimously.

Penalty Imposed: Revocation.

Summary of Applicants:

Board Counsel Clark presented Ms. Grayson’s application as a Hearing Not Involving Disputed Issues of Material Fact:

01-12-09 Christina Grayson – Registered Trainee – Orlando

Upon motion by Member Wright, with second by Member Dailey, the Board voted unanimously to approve the application of Ms. Grayson for registered trainee appraiser.

New Applicants:

Peter Patterson presented the Summary of Applicants and the Board decisions are as follows:

02-12-09 Calvin E. Walls – Certified Residential Appraiser – Cape Coral

Action Taken: Mr. Walls’ application will be held in abeyance until additional supporting documents from Arizona can be provided to Florida.

03-12-09 Gregory N. Cooper – Registered Trainee – Tallahassee

Upon motion by Member Wright, with second by Member Dailey, the Board voted unanimously to approve the application of Mr. Cooper for registered trainee appraiser.
Board Business

Rules Report

Counsel Clark provided the Board with a rules report, showing the status of the rules at this time. She addressed letters from the Joint Administrative Procedures Committee (JAPC) regarding Rule 61J1-4.010 and stated Rule 61J1-6.001 became effective on November 12, 2009. The JAPC letters ask for changes to be made to the publication summary and the referenced forms. Two rules on the report require the use of forms and JAPC requires additional information before they will approve the rule.

Rule 61J1-4.007 Renewal of Inactive Registrations, Licenses and Certifications.

Counsel Clark stated the Division has requested Rule 61J1-4.007(8) be revised to add some rule reference changes to that language. The proposed changes are:

61J1-4.007 Renewal of Inactive Registrations, Licenses and Certifications.
   (1) – (7) No change.

   (8) Any registration, license or certification which exceeds 4 years in the inactive status shall automatically expire and the person must meet all the requirements of Sections 475.615, 475.616 and 475.617, F.S., and Rule 61J1-2.001, 61J1-3.001, 61J1-4.001 or 61J1-4.002, 61J1-5.001 and 61J1-6.001, 61J1-10.001, 61J1-10.002, 61J1-10.003, 61J1-10.004, F.S.C., in order to be registered or certified again as an appraiser.

Upon motion by Member Dailey and second by Vice-Chair Rogers, the Board voted to notice Rule 61J1-4.007 for Rule Development with Text as proposed.

Director O’Bryant requested the Board to notice Rule 61J1-4.001(3) and (6) for Rule Development to modify language to comply with Appraiser Qualifications Board guidelines.

Upon motion by Member Dailey and second by Member Wright the Board voted unanimously to notice Rule 61J1-4.001(3) and 61J1-4.001(6) for Rule Development.

Rule changes regarding USPAP will be sent to Board Counsel for revision. Member Wright moved to advertise rules that must be updated. Vice-Chair Rogers seconded the motion which carried unanimously.

Report on Association of Appraiser Regulatory Official (AARO) Conference

Member Oreto provided a report on the October 9, 2009 meetings of the Appraiser Qualifications Board (AQB) and the State Regulator Advisory Group (SRAG). She also provided a report on upcoming issues that were discussed at the Association of Appraiser Regulatory Officials meeting.

The AQB discussed the following topics:
- Lenders not wanting trainee appraisers to perform appraisal reports
- Development of a practicum course and graduate degree programs for real estate
- Pass rate for the recently implemented National Exam
- Course Approval Program issues
The SRAG discussions included the following:
- Experience credit
- Sequencing of education courses
- Undergraduate degree programs
- Appraisal Management Companies (AMCs)
- Discussion of disclosure of any service on any property
- Draft reports
- When does an appraisal end

The AARO meeting discussions addressed the following:
- State regulator issues were discussed
- Investigator training – developing the second phase of the training course
- Legislation to regulate AMCs
- Real Estate Owned (REO) properties and distressed market conditions
- Standard 3 Reviews performed by AMCs
- Location of reviewers and geographic competency.

Ms. Oreto stated she was honored to be able to represent Florida at these meetings. As the newest member of the Board, she found the meetings very helpful and informative and looks forward to being able to attend at another time.

**Administrative Matters**

**Review and Consideration of Appraiser Continuing Education Courses**

Upon motion by Member Dailey with second by Member Oreto, the Board voted unanimously to approve The View from the County Property Appraiser’s Desk continuing education course.

**Director’s Comments**

Director O’Bryant reported on the following items:
- Has conducted a Bill Analysis of House Bill 78 (AMC Legislation).
- Changes to Florida Statute 455.227 now require all licensees to provide written notice to the Department for any arrest
- Licensee count and Exam reporting results.
- Letter from Mr. Scott Pickell of a California appraisal management company regarding the company name and address on appraisal reports completed by Florida appraisers. Director O’Bryant will send a letter to Mr. Pickell.

**Chair’s Comments**

Chair Herndon commented on the following:
- Ms. Herndon would like to see a rule to address the matter of out-of-state reviewers who perform Standard 3 Reviews and conclude a different value on an appraisal report completed by a Florida appraiser for a Florida property. Information provided by the Frequently Asked Questions of the Uniform Standards of Professional Appraisal Practice was discussed at length.
- Addressed correspondence from James J. Gross regarding the regulation of appraisal management companies.
Public Comment

The Board heard comments from the Public.

Appraisal Subcommittee Exit Report - Vicki Ledbetter, Policy Manager:

Ms. Vicki Ledbetter, Florida Policy Manager from the Appraisal Subcommittee (ASC) addressed the Board, providing a brief background of how the ASC came into existence and their purpose in reviewing the regulatory programs for compliance with Title XI the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Ms. Ledbetter reported that the review of Florida’s program was completed by Policy Manager Jenny Tidwell and herself. Their review began in Tallahassee, where they were able to tour the Customer Contact Center and the Central Intake Unit and review their processes. The review concluded in Orlando where they were able to review enforcement files and legal case files.

Ms. Ledbetter explained that when she leaves, she will complete a report that will be forwarded to the Appraisal Subcommittee (ASC). The ASC will review the report and that Board will then follow up with a letter to the Secretary of the Department of Business and Professional Regulation.

Ms. Ledbetter said Florida’s 2009 Field Review revealed only one issue to be addressed, the Complaint Review Process. Ms. Ledbetter reported her initial findings for the 2009 Field Review as:

- **Statutes and Rules**: Minor issues already being addressed by the Department are:
  - rule revisions to meet a requirement of 100% attendance at an education course
  - Limit the number of continuing education hours that can be credited to a licensee who teaches a course.

- **Temporary Practice**: Florida’s temporary practice permits are being processed in a timely and efficient manner.

- **National Registry**: Florida’s reports to the National Registry are submitted on a weekly basis, which is more frequent than required by Title XI. Disciplinary Actions are being reported in a timely manner.

- **Applications**: The applications are being process in an appropriate manner. Each application is being reviewed for education and experience compliance. Experience is being audited for USPAP compliance.

- **Reciprocity**: Florida now has mutual recognition which is similar to reciprocity. Based upon when an applicant completed their national exam the individual may or may not need to complete the National Exam again.

- **Education**: Courses are being reviewed for content and completeness and are being processed in a timely manner.

- **Enforcement**: During the 2009 Field Review, the ASC found a backlog in enforcement. Ms. Ledbetter recognized that although the initial complaint numbers have increased, Investigations has reduced the investigation time to six months. Many cases have been closed since the 2007 field review but there are still many cases over the one year guideline. Ms. Ledbetter acknowledged some cases are awaiting final orders due to
pending DOAH hearings, appeals, continuances and external agencies, all of which effect case closure time. She reported the closed case files are well documented, fair and justifiable.

- In response to Chair Herndon’s inquiry, Ms. Ledbetter noted that some states, such as North Carolina, manages to keep their response time to complaints less than the 365 days mandated by Policy Statement 10. Other states, such as New York use peer reviews to determine violations, which helps reduce the processing time for complaints.

- Wisconsin uses “contract investigators” who are “quasi-employees” and are paid for work completed. Other states use volunteers to complete reviews of incoming complaints.

- Ms. Ledbetter asked the Board to consider how this problem will be resolved. She suggested the Board write a letter to the Appraisal Subcommittee to express their concerns over the one year enforcement guideline.

- The enforcement files appear to be well documented. With regards to consistency, The Appraisal Foundation (TAF) has developed a proposed sanctioning grid. States have been asked to provide comments prior to the final action by the Foundation. She asked the Board to review the proposed grid to see if any of the elements might be used to enhance Florida’s program.

Ms. Ledbetter recognized the pro-active approach taken by Director O’Bryant for the review of Florida’s University Degree programs for compliance with the 2008 Real Property Appraiser Criteria.

Ms. Ledbetter thanked the Board and Department staff in both Tallahassee and Orlando for their assistance. Chair Herndon expressed her gratitude to Ms. Ledbetter for her efforts because the yearly visits have helped the Department gain the resources needed to support the appraiser program.

**Adjournment**

There being no other business, the Chair adjourned the meeting at approximately 1:10 p.m. The next meeting of the Florida Real Estate Appraisal Board will be held on February 1 & 2, 2010.
ATTEST:

Joni L. Herndon, Chair
Florida Real Estate Appraisal Board
Date 1/1/10

Thomas W. O'Bryant, Jr., Executive Director
Florida Real Estate Appraisal Board
Date 02/04/2010

Respectfully Submitted:

Beverly Ridenauer
Government Analyst II
Date 02/04/2010

Minutes
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