



Executive Summary
State Board of Certified Real Estate Appraisers
2601 North Third Street, Harrisburg
May 14, 2009

Present at the regular meeting of the Board were: Chairman Robert McRae, Paul Kauffman, Valentino Pasquarella, Robert Kelley, Martha Brown (Secretary of the Commonwealth's Designee), John Abel (Attorney General's Designee) and Paul Wentzel (Department of Banking Designee). Also present were Board Counsel Christopher McNally and Board Administrator Heidi Weirich.

The following key discussions/actions were taken:

1. Chairman McRae announced that this was the last meeting of public member Robert Kelley. The Board presented Robert with a proclamation in gratitude for his service to the Commonwealth. Commissioner Merenda also extended thanks on behalf of himself and the Governor.

Commissioner Merenda announced that HB299 and SB147 were sitting in the House and Senate. Both authorize charging the respondent for the cost of investigation and increase the maximum amount allowed in civil penalties from \$1,000 to \$10,000.

2. The March minutes were approved as submitted.
3. Report of Prosecution
 - Lawrence Walker (File No. 08-70-05162). The respondent is not a certified appraiser. He completed an income approach appraisal under an accountant license that had expired in 1996. The Commonwealth recommends \$500 in civil penalties and a cease and desist from performing appraisals unless properly certified. The consent agreement presented by the prosecution was deliberated by the Board in executive session and was approved.
 - James McKissig (File No. 08-70-03579). The respondent is a certified residential appraiser. The appraisal in question, completed in February 2008, was found to be noncompliant with USPAP. The respondent failed to mention previous sales in his report, made no downward adjustments for comparables and did not properly describe the location. The Commonwealth recommends \$1,000 in civil penalties, \$800 investigative costs and 15-hours USPAP course. The consent agreement presented by the prosecution was deliberated by the Board in executive session and was approved.
 - John Sanders (File No. 08-70-05248). The respondent is a certified residential appraiser and has an expired broker/appraiser license. In June 2007, the respondent completed an appraisal that was found to be noncompliant with USPAP. The Commonwealth recommends \$2,500 in civil penalties and 15-hours USPAP course. The consent agreement presented by the prosecution was deliberated by the Board in executive session and was approved.

4. Report of Board Counsel

- Counsel distributed Utah legislation regulating appraisal management companies (AMCs) for the Board to review and decide if they would like to pursue similar legislation. The Board debated the pros and cons of seeking a legislative fix to the problem of AMCs and whether or not a problem even exists. The following comments were made:
 - The Board can request a memorandum to draft a bill and seek out a sponsor.
 - Chairman McRae asked Heidi to begin a file containing legislation regarding AMCs passed in other states.
 - Concern was raised over the consequences of the Board not being proactive on this issue.
 - It was noted that lobbyists from the banking and mortgage industries are expecting legislation to be introduced in the near future regulating AMCs.
 - Respondents previously disciplined by the Board who find employment through AMCs are a concern for the Board. With no way to regulate AMCs, the Board has no idea of the number or scope of these previous disciplinarians.
 - Concern was raised over legislation being introduced by the Board and not by constituents or by an association.
 - Counsel noted that the Board could hold hearings, invite the public, and have on public record concerns with AMCs not being regulated.
- The Board determined to pursue a series of constituent meetings throughout the Commonwealth, where Legislators and Board members can hear testimony from members of the public concerned with AMCs not being regulated. Paul Kauffman will work with Board counsel to coordinate.
- Terry Payne (File No. 07-70-07176). Board counsel admitted additional documentation for this case. The Board deemed the additional documents admissible. Following deliberation in executive session, the Board instructed counsel to draft an adjudication order in accordance with the discussion.

5. Administrator's Report

- Heidi will research available dates for rescheduling a meeting in Erie.

6. Applications

- Temporary Practice Permit Application – Mickey Gene Petitto. This application was put on hold due to lack of documentation.

7. Regulations

- The Board reviewed a new draft of Act 48 Schedule of Civil Penalties. Wennberg noted that by implementing civil penalties for continuing education the Board implies a duty to make-up any deficiency. The Board's regulations will require language noting that education make-up hours need to be completed within a determined time-frame, Wennberg suggests six months, or disciplinary action will ensue by means of an adjudication order and/or consent agreement. The Board approved the companion revised regulation with a six month timeframe.
- The Regulations package has left the Department of State and is currently being reviewed by the Governor's Policy and Budget Offices.

8. Formal Hearing

BPOA vs. Michael A. Hogdes (File No. 2007-70-07238)

The respondent first became certified in 1982. He currently owns an aviation consulting company and is certified in Georgia and Pennsylvania. The nature of his work requires that he apply for temporary permits across the nation. The respondent was disciplined by the Oregon Licensing Board in March 2006 for performing an appraisal without a valid temporary permit.

The respondent testified that in late 2005, he was working with a client in Oregon on non-appraisal matters and this client asked him to complete an appraisal while in the area. The respondent immediately applied for a temporary permit with the state of Oregon. Since he was flying to Oregon on matters related to the other job, and in an attempt to save the client money, the respondent went ahead and completed the appraisal even though he had not yet received his temporary permit. This was not the first time he applied for a temporary permit in Oregon and he had been granted a permit with his previous applications.

The respondent later learned that his application was lost in the mail. He immediately contacted the Board and completed another application. The permit was denied because the date on the application was after the date of the job for which the permit was being requested. The respondent contacted the client, retracted the appraisal and was never paid for completing the report.

The respondent then received notice from the Oregon Licensing Board of charges being brought against him because he performed an appraisal prior to having the temporary permit in hand. The respondent, recognizing that he made an administrative error, plead guilty and paid the \$500 civil penalty. He did not realize that this incident would need disclosed every time he applied for a temporary permit.

The respondent has been certified in Pennsylvania for 10 years and needs to renew his license. He has made changes at his office to ensure that this error does not occur again. Upon receiving a job request, his secretary completes the research on what permit is needed to practice in the state of the job, applies for the permit and follows up with the state board to ensure that he holds the proper documentation to complete the job.

The Commonwealth is requesting that the Board extend the sanctions posed in Oregon, \$500 in civil penalties. The Board will deliberate this case in executive session and plan to deliver a decision at the June meeting.

9. Next Meeting – June 11, 2009

The foregoing represents the author's best interpretation of the significant actions and discussions of the Board. Aside from the meeting agenda, the author receives no supporting documentation or materials in advance or during the meeting, nor is the author present during any executive sessions of the Board. Therefore, this summary may not accurately reflect official actions or positions taken. Official minutes of the proceedings may be secured by contacting the Bureau of Professional & Occupational Affairs.

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For further information, contact Sylvia Lacerda, Government Affairs Specialist