

BEFORE THE WEST VIRGINIA REAL ESTATE APPRAISER
LICENSING AND CERTIFICATION BOARD



IN THE MATTER OF:

Case No. 02-003B and 02-013A

Keith D. Scott
Certified Residential Appraiser
No. 0289

CONSENT AGREEMENT

Comes now Keith D. Scott, by counsel, Edward ReBrook, and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter the "Board), by counsel, Barry L. Koerber, Assistant Attorney General, for the purpose of agreeing to disciplinary action which shall be taken against Mr. Scott by the Board pursuant to W.Va. Code §30-38-12(a)(7) and (11). As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter, and the Board approving such agreement, does hereby find and **ORDER** as follows:

FINDINGS OF FACT

1. The Board is a state entity created by W.Va. Code §30-38-1 *et seq.*, and is empowered to regulate the practice of real estate appraising pursuant to W. Va. Code §30-1-8 and W.Va. Code §30-38-13.
2. Keith Scott was issued a license as a Certified Residential Real Estate Appraiser, No. 0289.
3. In connection with information provided in Case No. 02-003B, Mr. Scott violated W.Va. Code §30-38-12(a)(7) which provides that the Board may impose disciplinary sanctions for a violation of any section of Article 38, Chapter 30, or any rule of the Board. W.Va.

Code §30-38-17 provides that each real estate appraiser shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation (hereinafter USPAP). By not providing workfiles to be reviewed by the Board, Mr. Scott violated the ETHICS RULE, Record Keeping section of USPAP which requires each appraiser to maintain workfiles for five (5) years.

4. In connection with Case No. 02-013A with respect to the preparation of an appraisal report on September 20, 2001, for real property located at Rt. 1, Box 303-d, Oak Hill, West Virginia, performed by Mr. Scott's apprentice, Matthew Morris, Mr. Scott violated §190CSR-2-12.5.a. (1997) relating to the responsibilities of a supervisor by failing to properly supervise the apprentice, Matthew Morris. Specifically, Mr. Morris committed the following significant errors:

(a) The sales price of Comparable No. 1 was listed as "\$88,000" when, in fact, it was \$80,000; the sales price of Comparable No. 2 was listed as "\$97,149" when, in fact, it was \$77,149; the sales price of Comparable No. 3 was listed as "\$82,500" when, in fact, it was \$80,000.

(b) The price/gross living area of Comparable No. 1 was listed as "\$76.52" when, in fact, it was \$69.57; the price/gross living area of Comparable No. 2 was listed as "\$74.73" when, in fact, it was \$45.38; the price/gross living area of Comparable No. 3 was listed as "\$67.07" when, in fact, it was \$65.04.

(c) The age of Comparable No. 1 was listed as "31 yrs, M/L" when, in fact, it was 1 yr/1 effective; the age of Comparable No. 2 was listed as "36 yrs, M/L" when, in fact, it was 5 yrs/5 effective; the age of Comparable No. 3 was listed as "28 yrs, M/L" when, in fact, it was 2 yrs/2 effective.

- (d) The bathroom in Comparable No. 1 was listed as "one" when, in fact, there were two (2); the bathrooms in Comparable No. 2 were listed as "1.5" when, in fact, there were two (2); the bathroom in Comparable No. 3 was listed as "one" when, in fact, there were two (2).
- (e) The gross living area of Comparable No. 2 was listed as "1,300 sq. ft." when, in fact, it was 1,700 sq. ft.
- (f) The Heating/Cooling of Comparable No. 1 was listed as "electric baseboard/no AC" when, in fact, it was electric heat pump; the Heating/Cooling of Comparable No. 2 was listed as "electric baseboard/no AC" when, in fact, it was electric heat pump; the Heating/Cooling of Comparable No. 3 was listed as "electric baseboard/no AC" when, in fact, it was electric heat pump.
- (g) The Garage/Carport of Comparable No. 1 was listed as "None" when, in fact, there was a 1 car attached garage; the Garage/Carport of Comparable No. 2 was listed as "None" when, in fact, there was a 2 car attached garage.
- (h) The Net Adj. (total) of Comparable No. 1 was listed as "\$7,600" when, in fact, it was \$5,900; the Net Adj. (total) of Comparable No. 2 was listed as "\$1,100" when, in fact, it was \$13,600; the Net Adj. (total) of Comparable No. 3 was listed as "\$6,400" when, in fact, it was \$3,600.
- (i) The Adjusted Sales Price of Comparable No. 1 was listed as "\$95,600" when, in fact, it was \$74,100; the Adjusted Sales Price of Comparable No. 2 was listed as "\$96,049" when, in fact, it was \$63,549; the Adjusted Sales Price of Comparable No. 3 was listed as "\$88,900" when, in fact, it was \$76,400.

CONCLUSIONS OF LAW

1. W.Va. Code §30-38-7(e) states that “The board shall...censure, suspend or revoke licenses and certifications as provided in this article.”
2. W.Va. Code §30-38-12(a)7 provides that the Board may discipline a license for violating any section of Article 38, Chapter 30, or any rule of the Board.
3. W.Va. Code §30-38-12(a)(11) provides that “[t]he board may refuse to issue or renew a license or certification, or after issuance may suspend or revoke a license or certification or impose disciplinary sanctions for...[f]ailing or refusing without good cause to exercise reasonable diligence, or negligence or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an appraisal.”
4. Pursuant to W.Va. Code §30-38-17, the Board has adopted the Uniform Standards of Professional Appraisal Practice (hereinafter USPAP) promulgated by The Appraisal Foundation.
5. The Uniform Standards of Professional Appraisal Practice, ETHICS RULE, states:

“Record Keeping:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.....[A]n appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.”

6. The Board's legislative rules at §190CSR-2-12.5.a. provides "The supervisor is at all times responsible for and shall provide direct supervision of the work performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice."
7. As indicated in Finding of Fact No. 4(a) through (i), Mr. Scott, a Certified Residential Real Estate Appraiser, violated these sections of the West Virginia Code, the legislative rules promulgated thereunder, and the Uniform Standards of Professional Appraisal Practice by failing to maintain workfiles and relating to the responsibilities of a supervisor.

CONSENT

Mr. Scott, by affixing his signature hereon, agrees to the following:

1. He acknowledges that he is aware of his option to pursue this matter through appropriate administrative and/or court channels, but intelligently, knowingly and voluntarily waives his right to do so.
2. He consents to the entry of the following Order affecting his license to practice real estate appraising in the State of West Virginia.

ORDER

On the basis of the foregoing, the Board hereby **ORDERS** that:

1. Mr. Scott's license to practice real estate appraising in the State of West Virginia shall be suspended for one (1) year beginning on the date of the signing of this Consent Agreement. The Board shall stay the suspension providing Mr. Scott shall not act as a supervising appraiser for a period of two (2) years beginning on the date of the signing of this Consent Agreement.
2. Mr. Scott will remit to the Board the sum of \$316.06, representing administrative fees, and the sum of \$500.00, representing a fine.

3. The Consent Agreement is a public record.
4. The Board recognizes that this Agreement is a compromise of a disputed claim and is not to be construed as an admission of liability or culpability on the part of Mr. Scott.

Keith D. Scott 4-2-03
Keith D. Scott Date

Edward R. Brook III 04.02.03
Edward ReBrook, Esquire Date

for Heather A. Connelly 4-8-03
Allen H. Loughry, II, Sr. Assistant Attorney General Date
And Counsel for the Board

Larry J. Puccio 4-08-03
Larry J. Puccio, Chairperson Date