

**BEFORE THE WEST VIRGINIA REAL ESTATE  
APPRAISER LICENSING AND CERTIFICATION BOARD**

**IN THE MATTER OF:**

**BRANDI N. KROFCHECK**

**Certified General Appraiser  
License No. CG341**

**Complaint No. 11-018**



**CONSENT DECREE**

Now comes Brandi N. Krofcheck (hereinafter "Krofcheck"), and the West Virginia Real Estate Appraiser Licensing and Certification Board (hereinafter "Board"), by Sandy Kerns, its Executive Director, for the purpose of resolving Board Complaint Number 11-018. As reflected herein, the parties have reached an agreement whereby Krofcheck agrees and stipulates to the following Findings of Fact and Conclusions of Law and the Board, having approved 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, among other things, licensed and certified real estate appraisers.
2. Krofcheck is a state certified general real estate appraiser licensed by the Board, holding license number CG341.

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3. In June of 2011 the Board became aware of an appraisal done by Krofcheck and another appraiser that required further investigation.

4. The appraisal, dated on or around August 11, 2009, was a property management appraisal performed on behalf of the property owner for land which the West Virginia Department of Highways (hereinafter "WVDOH") was seeking disposition. On or around April 1, 2010, the WVDOH found several inconsistencies that precluded approval as submitted.

5. Krofcheck and the other appraiser of their own volition prepared and submitted a revised appraisal on the same property that was received by the WVDOH on or around April 26, 2010.

6. The Standards Committee reviewed both appraisals. The appraisals were sent to Larry Disney, an expert that the Board customarily uses to review appraisals, for an opinion concerning compliance with USPAP requirements and to offer comments on the reasonableness and support for the value opinions.

#### **Independent Review for Complaint No. 11-018**

7. On or around September 7, 2011 Disney prepared a review of the initial appraisal dated August 11, 2009. In general the deficiencies cited by Disney were the following:

a. A letter from the [WVDOH] alleged that the appraisal provided an incorrect property description, including the site size being 15,112 square feet when in reality the site size was 12,446 square feet of land area;

b. The ownership and location identified for the property within the report were factually incorrect;

c. The property access was incorrectly reported;

d. Although the site was identified as having commercial potential, the Highest and Best Use of the site was not summarized. There was no mention of whether the site was

considered excess or surplus land, although it was stated the site might have significant value if combined with an adjoining site;

e. There was no specificity of the sale properties. There was descriptive information provided, however, there was no summary for understanding how the sale properties might be similar or dissimilar when compared with the subject property;

f. It was reported that sale 3 contained a building that was razed as a condition of the sale. However, there was no mention within the appraisal report or summary of sales information how the cost of demolition created a possible negative consideration in site sales price;

g. There was no reconciliation of the comparable sales prices. Instead, the appraiser identified sale 1 and sale 3 as each receiving equal 50% weight for establishing the square foot unit of sale price for the subject site. There was no summary of reasoning for the process applied for determining the site value to be based upon \$7.33 per square foot, based on sale 1 receiving a \$4.53 square foot price and sale 3 receiving \$2.80 per square foot, and each of the two being added together for the subject site reconciled sale price of \$7.33 per square foot; and

h. The lack of summarized information and data resulted in a less than credible report, thus the final value opinion can easily be misleading.

8. In the same report Disney cited the following USPAP violations for the initial appraisal dated August 11, 2009:

a. Standard 2-1(a): Each written or oral real property appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading. *Deficiency:* The information reported is not clear and concise;

b. Standard 2-1(b): Each written or oral real property appraisal report must contain sufficient information to enable the intended users of the appraisal to understand the report properly. *Deficiency:* Because of the terse and abbreviated information reported, it is highly probable that the client or any individual reading the report will have difficulty understanding the conclusions and the results. The report content lacks that of a summary report detail;

c. Standard 2-1(c): Each written or oral real property appraisal report must clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment. *Deficiency:* Although the report included language that the report included an assumption, there was no summary of detail for supporting the use or the impact upon the value opinion;

d. Standard 2-2(b)(iii): The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum, summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment and state information sufficient to identify the real estate involved in the appraisal. *Deficiency:* See above identified deficiencies;

e. Standard 2-2-(b)(v): The content of a summary appraisal report must be consistent with the intended use of the appraisal and, at a minimum, state the type and definition of value and cite the source of the definition. *Deficiency:* Although the appraiser identified the value opinion to be fair market value and provided a definition, the source of the definition was not revealed;

f. Standard 2-2-(b)(vii): The content of a summary appraisal report must be consistent with the intended use of the appraisal and, at a minimum, summarize the scope of work

used to develop the appraisal. *Deficiency:* The information reported was not presented in a summary format;

g. Standard 2-2(b)(viii): The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum, summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained and state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained. *Deficiency:* The appraiser did not include a summary of reasoning for the reported conclusions that are considered meaningful for credible assignment results. See above comments;

h. Standard 2-2(b)(ix): The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum, state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion. *Deficiency:* There was no summary of support identified for the highest and best use of the subject site; and

i. Standard 2-2(b)(x): The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum, clearly and conspicuously state all extraordinary assumptions and hypothetical conditions and state that their use might have affected the assignment results. *Deficiency:* There was no support for the extraordinary assumption and no comment that the value opinion might be impacted by the assumption.

9. Disney provided a letter to the Board on or about September 18, 2011, listing the following deficiencies with regard to the initial appraisal report dated August 11, 2009:

a. The appraiser failed to include the correct site area. Failure to identify the correct site area, especially a relatively small area, is critical to developing a credible value opinion using the square foot unit of measurement Standard 1-2(e) and Standard 2-2(b)(iii);

b. The appraiser identified restrictions, "if any" would be that applied by an adjoining property owner; however, there was no information provided to support that statement. That is a critical comment because any restriction or control from outside forces could possibly create a negative impact upon the property market value, Standard 1-2(e) and Standard 2-2(b)(iii);

c. Although required in Standards 1-2(e) and 2-2(b)(iii) the appraiser failed to include all of the possible points for egress and ingress into the subject property. If direct access off a U.S. Highway is possible, that would likely create positive impact upon the property market value. See the following definition of assemblage that appears in The Dictionary of Real Estate Appraisal, 4th Edition published by the Appraisal Institute: [Assemblage 1. The combining of two or more parcels, usually but not necessarily contiguous, into one ownership or use; the process that creates plottage value. 2. In appraising personal property, the combining of properties (e.g., items or components) into units, sets, or groups. In appraising business enterprises, the integration or combination under unified control of business entities];

d. Also, as required in Standards 1-3(b)(iii) and (ix) the appraiser failed to summarize the development of the highest and best use, specifically the subject property use, assuming that the use is possibly dependant upon assemblage with an adjoining property ownership. Although the site value is dependent upon assemblage and/or plottage, there was no mention either.

The following definitions appear in The Dictionary of Real Estate Appraisal, 4th Edition published by the Appraisal Institute.

Definition 1 - Assemblage - 1. The combining of two or more parcels, usually, but not necessarily contiguous, into one ownership or use; the process that creates plottage value.  
2. In appraising personal property, the combining of properties (e.g., items or components) into units, sets, or groups. In appraising business enterprises, the integration or combination under unified control of business entities. (USPAP, 2002 ed.)

Definition 2 - Plottage - The increment of value created when two or more sites are combined to produce greater utility;

e. The appraisal report did not include a report label in compliance with Standard 2-2;

f. The appraiser identified the intended use to include reliance upon the report of a sale/lease of excess right of way, supposedly by the West Virginia Department of Transportation, although the intended user was identified as BFS Food, Inc., the client was not identified per Standard 2-2(b)(i);

g. The appraiser certified that the analyses, opinions, and conclusions were developed and the report prepared in conformity with the WVDOH Manual Information for Appraisers and USPAP except where Jurisdictional Exceptions and/or Supplemental Standards applied. Further, the appraiser certified that the report had been clearly and accurately prepared in conformity with the law and public policy of the West Virginia Department of Transportation. However, the appraiser did not provide a summary of information to support the certification comment per Standards 2-2(b)(vii) and (viii); and

h. Although the appraisal report includes language that the value opinion is indicative of both market value and “fair” market value, the appraiser did not include a definition of market value or reference a source for either definition per Standard 2-2(v).

10. On or around September 7, 2011 Disney prepared a review of the revised appraisal report dated April 13, 2010. In general the deficiencies cited by Disney were the following:

a. Page 2 of the certification page identified a Jurisdictional Exception that would require the appraiser to develop and report information that is contrary to USPAP. However, the appraiser provided no citation of a specific rule or laws that mandated the appraiser to develop or report any item that was contrary to USPAP;

b. The appraisal report was identified as a summary, but in reality the report lacked sufficient information that revealed a highest and best use development or any support for the subject property being a “stand-a-lone” site. Also, there was no summary of whether the site consists of excess or surplus land without the assemblage with adjoining land area;

c. The property was incorrectly identified with the appraisal report;

d. There was no reconciliation of the comparable sales prices. Instead, the appraiser identified sale 1 and sale 3 as each receiving equal 50% weighting for establishing the square root unit of sale price for the subject site. There was no summary of reasoning for the process applied for determining the site value to be based upon \$7.33 per square foot, based on sale 1 receiving a \$4.53 square foot price and sale 3 receiving \$2.80 per square foot, and each of the two being added together for the subject site reconciled sale price of \$7.33 per square foot; and

e. The lack of summarized information and data resulted in a less than credible report, thus the final value opinion can easily be misleading.



11. Disney reported that Krofcheck's revised appraisal contained the same USPAP violations as in her initial appraisal. (*See* Paragraph 31 above).

12. As stated above Disney provided a letter to the Board on or about September 18, 2011. With regard to Krofcheck's revised appraisal report dated April 13, 2010 Disney listed the following deficiencies in his letter to the Board:

a. The appraiser identified restrictions, "if any" that would be applied by an adjoining property owner; however, there was no information provided to support that statement. Any restriction or control of outside forces would possibly create a negative impact upon the property market value. Standards 1-2(e) and 2-2(b)(viii);

b. Per Standards 1-2(e) and 2-2(b)(viii) the appraiser did not include all of the possible access points for egress and ingress to the subject property. Direct access off a U.S. Highway would likely create positive impact upon the property market value. See the definition of assemblage that appears in *The Dictionary of Real Estate Appraisal*, 4th Edition as cited above;

c. Per Standards 1-3(b) and 2-2(b)(viii) the appraiser failed to summarize the development of the highest and best use, specifically the subject property use, assuming that the use is possibly dependent upon assemblage with an adjoining property ownership. There was no mention of the plottage;

d. The report submitted to [Disney] did not include a report label in compliance with Standard 2-2. The report lacked sufficient information for support of the facts in developing the value opinions reported in compliance with Standards 2-2(b)(iii) and (viii);

e. The appraiser certifies that the comparable sales relied upon were included either with the appraisal report or the data book, however, that additional information was not included within the report submitted for [Disney's] review pursuant to Standard 2-2(b)(viii);

f. The appraiser identified the intended use to include reliance upon the report for a sale/lease of excess right of way, supposedly by the West Virginia Department of Transportation, although the intended user was identified as BFS Food, Inc., the client was not identified per Standard 2-2(b)(i);

g. The appraiser certified that the analyses, opinions and conclusions were developed, and the report was prepared, in conformity with the [WVDOH] Manual Information for Appraisers and USPAP as promulgated by the Appraisal Foundation except where Jurisdictional Exceptions and/or Supplemental Standards applied. Further the appraiser certified that the report was clearly and accurately prepared in conformity with the law and public policy of the [WVDOH]. However, the appraiser did not provide a summary of information to support the certification comment per Standards 2-2(b)(vii) and (viii);

h. Although the appraisal report included language that the value opinion is indicative of both market value and fair market value, the appraiser did not include a definition of market value or reference a source for either definition per Standard 2-2(v);

i. Within the Certification, the appraiser identified a Jurisdictional Exception to USPAP, identified within the USPAP Definitions Sections as: JURISDICTIONAL EXCEPTION: an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP. The appraiser provided no reasoning or citation of a law or public policy that has the force of law that was applicable to the assignment; and

j. Per Standard 2-2(b)(viii) the appraiser did not explain the reasoning or support for the square foot value of \$7.50. The appraiser failed to provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions

including reconciliation of the data and approaches, in accordance with Standard 1-6 requiring development of a reconciliation to support the value opinions developed.

13. On October 12, 2011 a letter was sent to Krofcheck requesting that she appear before the Committee for an informal discussion.

14. Based on the above information, the Standards Committee recommended that the license of Krofcheck be restricted where she shall not perform or participate in the performance of, either directly or indirectly, the preparation of any eminent domain appraisal until such time that she successfully completes with exam the the International Right of Way Course, "Appraisal of Partial Acquisitions" (40 hours) or its Board approved equivalent, in addition to any continuing education necessary to renew her license. She will also be required to pay administrative costs and fees for the investigation of the complaint.

15. The Board voted to accept the Committee's recommendation.

#### **CONCLUSIONS OF LAW**

Pursuant to Article 38 of Chapter 30 of the West Virginia Code, the Board is the State entity vested with the power to regulate real estate appraisers in the State of West Virginia.

1. Pursuant to West Virginia Code § 30-38-12(a)(7), the Board may revoke, suspend, refuse to renew, or otherwise discipline the license of an appraiser, or deny an application, for any violation of any section of this article, or rule of the Board.

2. Pursuant to West Virginia Code § 30-38-12(a)(11), the Board may revoke, suspend, refuse to renew, or otherwise discipline the license of an appraiser, or deny an application, for failing or refusing without good cause to exercise reasonable diligence, negligence or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

3. Pursuant to West Virginia Code § 30-38-13, the Board may revoke, suspend, refuse to renew, or otherwise discipline an appraiser, or deny an application, for any of the acts or omission set forth in this article or in the rules of the Board.

4. West Virginia Code § 30-38-17 provides, in pertinent part, that “[e]ach real estate appraiser licensed or certified under this act shall 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 [USPAP] promulgated by the Appraisal Foundation.”

#### CONSENT

Krofcheck, both in her individual capacity and as a certified general real estate appraiser, by the execution hereof, agrees to the following:

1. Krofcheck has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Krofcheck to make this settlement other than as set forth herein. Krofcheck acknowledges that she is aware that she may pursue this matter through appropriate administrative and/or court proceedings, and is aware of her legal rights regarding this matter, but intelligently and voluntarily waives such rights.

2. Krofcheck consents to the entry of the following Order affecting her conduct as a certified general real estate appraiser.

## ORDER

On the basis of the foregoing, the Board hereby **ORDERS** as follows:

1. The appraiser license of Krofcheck is hereby restricted so as to preclude her from performing or participating in the performance of, either directly or indirectly, the preparation of any eminent domain appraisal until such time that she successfully completes with exam the International Right of Way Course, "Appraisal of Partial Acquisitions" (40 hours) or its Board approved equivalent. Such course shall be completed in addition to any continued education course required to obtain and/or maintain licensure, or renewal of licensure thereof. Until said course is completed, the aforesaid restriction shall apply to all renewals of Krofcheck's license. Upon receipt of proof satisfactory to the Board that said course has been completed, the above restriction shall be removed.

2. Krofcheck shall pay administrative costs for the investigation of the complaint in the amount of \$1486.55. Such payment by Krofcheck shall represent the costs and fees incurred by the Board associated with the investigation and prosecution of Complaint Number 11-018. Such payments shall be paid to the Board in full prior to the expiration of Krofcheck's license on September 30, 2012. Absent receipt of such amount, Krofcheck's license will not be renewed.

3. Any deviation from the requirements of the instant Consent Decree without the prior written consent of the Board, shall constitute a violation of this Order, and result in further discipline by the Board. The Board shall immediately notify Krofcheck via certified mail of the specific nature of the charges and further discipline.

4. In the event Krofcheck contests any such allegations of violation of the Consent Decree, if any, which results in further discipline, Krofcheck may request a hearing to contest said

discipline. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-38-1 *et seq.*

6. Further, in the discretion of the Board and in the event Krofcheck violates the provisions of the instant Consent Decree, the Board may schedule a hearing on its own initiative for the purpose of allowing the Board the opportunity to consider further discipline against Krofcheck.

**AGREED TO BY:**

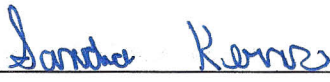
  
BRANDI KROFCHECK, Individually

6-12-2012  
DATE

**ENTERED into the records of the Board this:**

13 day of June, 2012.

**WEST VIRGINIA REAL ESTATE APPRAISER  
LICENSING AND CERTIFICATION BOARD**

By:   
SANDRA KERNS  
EXECUTIVE DIRECTOR

June 13, 2012  
DATE