

BEFORE THE MISSOURI
STATE REAL ESTATE APPRAISERS COMMISSION

MISSOURI REAL ESTATE APPRAISERS)	
COMMISSION,)	
)	
Petitioner,)	
)	
v.)	No. 13-0052 RA
)	
DAVID AKIN,)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

I.

Statement of the Case

On or about January 13, 2014, the Administrative Hearing Commission entered its Decision in the case of *Missouri Real Estate Appraisers Commission v. David Akin*, Case No. 13-0052 RA. The Administrative Hearing Commission certified the records of its proceedings and its Decision in *Missouri Real Estate Appraisers Commission v. David Akin*, Case No. 13-0052 RA, to the Missouri Real Estate Appraiser Commission (the "MREAC") on approximately February 28, 2014. In its Decision, the Administrative Hearing Commission found that Respondent Akin's certification as a state certified residential real estate appraiser was subject to disciplinary action by the MREAC pursuant to § 339.532.2(5), (6), (7), (8), (10) and (14), RSMo.¹

The MREAC has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Decision. The Decision of the Administrative Hearing Commission is hereby adopted and incorporated herein by reference.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Pursuant to notice and §§ 621.110 and 339.532.3, RSMo, the MREAC held a hearing on March 18, 2014, at approximately 4:45 p.m. at the Missouri Council of School Administrators Building, 3550 Amazonas Drive, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's certification. The MREAC was represented by Assistant Attorney General Faraz Nayyar. Respondent was present for the hearing but was not represented by counsel. After being present and considering all of the evidence presented during the hearing, the MREAC issues the following Findings of Facts, Conclusions of Law and Order.

II.

Findings of Fact

1. Respondent David Akin holds a certification as a state certified residential real estate appraiser from the MREAC (license no. 2004017721). Respondent Akin's certification is, and was, at all relevant times herein, current and active.

2. The MREAC hereby adopts and incorporates herein the Decision of the Administrative Hearing Commission and the record in *Missouri Real Estate Appraisers Commission v. David Akin*, Case No. 13-0052 RA.

3. In its January 13, 2014 Decision, the Administrative Hearing Commission found the MREAC has grounds to discipline Respondent's certification pursuant to § 339.532.2(5), (6), (7), (8), (10) and (14), RSMo.

4. The MREAC set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.

III.

Conclusions of Law

5. The MREAC has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.532.3, RSMo.

6. The MREAC expressly adopts and incorporates by reference the Decision of the Administrative Hearing Commission and the record in *Missouri Real Estate Appraisers Commission v. David Akin*, Case No. 13-0052 RA, finding cause to discipline Respondent's certification as a state certified residential real estate appraiser pursuant to § 339.532.2(5), (6), (7), (8), (10) and (14), RSMo.

7. As a result of the foregoing, and as identified in the Decision of the Administrative Hearing Commission, Respondent's certification as a state certified residential real estate appraiser is subject to disciplinary action by the MREAC, pursuant to § 339.532.2(5), (6), (7), (8), (10) and (14), RSMo.

8. The MREAC has determined that this Order is necessary to ensure the protection of the public.

IV.

Order

9. Having fully considered all the evidence before the MREAC, and giving full weight to the Decision of the Administrative Hearing Commission, it is the **ORDER** of the MREAC, that Respondent Akin's certification as a state certified real estate appraiser is hereby placed on **PROBATION** for a term of two (2) years, subject to the following terms and conditions:

I. EDUCATION REQUIREMENTS

- A. Within the first year of Licensee's probation, Licensee shall submit verification to the Commission of successful completion of a fifteen hour approved qualifying education course, including examination, on Market Data Analysis and Highest and Best Use. The course shall be in addition to regular continuing education requirements for the renewal period.

II. GENERAL REQUIREMENTS

A. Akin shall be entitled to engage in the practice of real estate appraising as a certified residential real estate appraiser pursuant to § 339.500 to § 339.549, RSMo, provided Akin adheres to all of the terms and conditions of this Order.

B. During the probationary period, Akin shall not supervise any real estate appraisal, as defined by § 339.503(1), RSMo, of property located in the state of Missouri nor act in any manner as an appraisal supervisor.

C. During the probationary period, Akin shall maintain a log of all appraisal assignments completed, including appraisal values. Akin shall submit a true and accurate copy of his log to the MREAC every six (6) months after the effective date of this Order. Each log, except for the final log, shall be submitted within 15 days after the end of the respective six month period. Akin shall submit the final log 30 days prior to the end of the probationary period. All logs shall comply with rule 20 CSR 2245-2.050.

D. During the probationary period, Akin shall submit samples of his appraisals as requested by the MREAC for review.

E. During the probationary period, Akin shall comply with all applicable provisions of Chapter 339, RSMo, all applicable MREAC regulations and all applicable federal and state laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

F. Akin shall meet in person with the MREAC or its representative at any such time and place as required by the MREAC or its designee upon notification from the MREAC or its designee. Said meetings will be at the MREAC's discretion and may occur periodically during the probationary period.

G. Akin shall immediately submit documents showing compliance with the requirements of this Order to the MREAC when requested by the MREAC or its designee.

H. If Akin fails to comply with the terms of this order during the probationary period, in any respect, the MREAC may choose to conduct a hearing before it either during the probationary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred. In the event MREAC determines that Akin has violated any term or condition of this Order, the MREAC may, in its discretion, vacate this Order and may impose additional discipline as deemed appropriate by the MREAC, including revocation of the certification, pursuant to § 324.042, RSMo. The MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Order has occurred.

I. Akin shall keep the MREAC apprised of his current home and work addresses and telephone numbers. Akin shall inform the MREAC in writing within ten (10) days of any change in this information.

J. During the probationary period, Akin shall timely renew his certificate, timely pay all fees required for certification and comply with all other requirements necessary to maintain his certificate current and active.

K. During the probationary period, Akin shall accept and comply with unannounced visits from the MREAC's representatives to monitor compliance with the terms and conditions of this Order.

L. This Order does not bind the MREAC or restrict the remedies available to the MREAC for any violation of § 339.500 to § 339.549, RSMo, not specifically mentioned in this document.

M. Upon the expiration of the probationary period, Akin's certificate shall be fully restored if all other requirements of law have been satisfied provided, however, that in the event the MREAC determines that Akin has violated any term or condition of this Order, the MREAC may, in its discretion, vacate and set aside the probation imposed herein and may impose any other lawful discipline the MREAC shall deem appropriate, including, revocation of said certification. No order shall be entered by the MREAC pursuant to this paragraph without any required notice and opportunity for a hearing before the MREAC in accordance with Chapter 536, RSMo.

N. If the MREAC determines that Akin has violated a term or condition of this Order, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the MREAC may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

O. If, at any time during the probationary period, Akin ceases to reside in the state of Missouri, or ceases to maintain his certificate as a certified residential real estate appraiser current or active under the provisions of Chapter 339, RSMo, or fails to keep the MREAC advised of his current places of residence and business, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.

P. Unless otherwise specified by the MREAC, all reports, documentation, evaluations, notices, or other materials required to be submitted to the MREAC shall be forwarded to: Missouri Real Estate Appraisers Commission, P.O. Box 1335, Jefferson City, Missouri 65102.

Q. Any failure by Akin to comply with any condition of discipline set forth herein constitutes a violation of this Order.

10. The terms of this Order are contractual, legally enforceable, and binding and not mere recitals. Except as otherwise contained herein, neither this Order nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

11. The MREAC will maintain this Order as an open record of the MREAC as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, THIS 20th day of March, 2014.

MISSOURI REAL ESTATE APPRAISERS COMMISSION


Vanessa Beauchamp,
Executive Director

JAN 10 2013

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

MISSOURI REAL ESTATE)
APPRAISERS COMMISSION,)
3605 Missouri Boulevard)
P.O. Box 1335)
Jefferson City, MO 65102,)

Petitioner,)

v.)

DAVID S. AKIN)
2000 N. Schotte Lane)
Columbia, MO 65202)
Telephone: (573) 219-0261)

Respondent.)

Case No. 13-0052 RA

COMPLAINT

Petitioner, the Missouri Real Estate Appraisers Commission, by and through its counsel, the Attorney General of the State of Missouri, states as follows for its cause of action against Respondent, David S. Akin:

ALLEGATIONS COMMON TO ALL COUNTS

The Missouri Real Estate Appraisers Commission ("MREAC") was established pursuant to § 339.507, RSMo¹, for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, as amended.

¹ All statutory references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

Respondent David S. Akin ("Akin") is certified by the MREAC as a state-certified residential real estate appraiser, certificate no. 2004017721. Such certification is and was at all times relevant to this action current and active.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.532.2, RSMo Supp. 2011.

4. Section 339.532.2, RSMo Supp. 2011, states in part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

.....

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;

(8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(10) Violating, assisting or enabling any person to willfully disregard any of the provisions of sections 339.500 to 339.549 or the regulations of the commission for the administration and enforcement of the provisions of sections 339.500 to 339.549;

.....
(14) Violation of any professional trust or confidence[.]

5. Section 339.535, RSMo, states:

State certified real estate appraisers and state licensed real estate appraisers shall comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation.

Count I
5805 Vero Way Appraisal Report

6. MREAC adopts and incorporates paragraphs 1 through 5 above as though alleged fully herein.

7. On or about March 30, 2011, Akin completed and signed a Uniform Residential Appraisal Report for residential real estate located at 5805 Vero Way, Columbia, Missouri, 65201 (“the 5805 Vero Way property”). The effective date of the appraisal report was March 30, 2011. This appraisal valued the property at \$138,000. This appraisal shall be referred to hereinafter as the “5805 Vero Way Appraisal Report.”

8. Akin was required to develop and report the results of the 5805 Vero Way Appraisal in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), 2010 – 2011 Edition.

9. The 5805 Vero Way Appraisal Report was prepared for Custom Mortgage Solutions, Inc., a Missouri corporation.

10. In preparation and reporting of the 5805 Vero Way Appraisal Report, Akin made significant and substantial errors of omission and/or commission, including, but not limited to:

- a. In the Sales Comparison Approach, Akin failed to adjust comparable sale #4 for being a custom built home which had more quality and finish upgrades that were not addressed, by stating that comparable #5 was one year old when the MLS revealed it was still under construction.
- b. Akin omitted any support to the designation that the effective age of the subject property is 2 years in contrast to its 6 years actual age and inconsistently identified the improvements.
- c. Akin incorrectly listed the sale history of the subject property by omitting a February 2011 listing of the subject property with a further reduced price.
- d. In the Site Section, Akin provided inaccurate information for the FEMA Flood Map zone, map number and snap date.
- e. In the Subject section, Akin misrepresented the listing history and states of the subject property by stating the subject property was listed since June 29, 20120 at \$145,000. In fact, the subject property was listed for \$150,000 on

June 29, 2010 and after numerous reductions was listed for \$139,000 at the time of the 5805 Vero Way Appraisal Report.

- f. The summary information provided at the top of page 2 of 6 of the 5805 Vero Way appraisal Report for comparable sales and listing is inconsistent with the same information provided in the Market Condition addendum.

11. In the preparation and reporting of the Sales Comparison Analysis in the 5805 Vero Way Appraisal Report, Akin made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Inaccurately adjusted the Sales Comparison Approach by failing to accurately adjust the value of comparable sale # 1, 5806 Vero Way and using the wrong sale price on comparable # 2.
- b. Akin failed to analyze such comparable sales data as available by failing to account for quality and finish upgrades in comparable # 3, to account for numerous upgrades and the custom built nature of comparable # 4, and to account for recent renovations in comparable # 1, all of which were available in the MLS system.

12. The 5805 Vero Way Appraisal Report overstates the value, is not credible and is misleading, and was developed and reported in violation of USPAP Standards 1 and 2.

13. USPAP Standard 1, regarding the development of an appraisal, states:

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

14. USPAP Standard 2, regarding the reporting of an appraisal, states:

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

15. Akin's errors and/or omissions in the preparation of the Sales Comparison

Analysis and/or the Cost Approach, as alleged in this Count, constitute violations of

USPAP Standard 1 and Standards Rule ("SR") 1-4(a) and (b), which states:

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

When a cost approach is necessary for credible assignment results, an appraiser must:

- (i) develop an opinion of site value by an appropriate appraisal method or technique;
- (ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and
- (iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

16. Based on Akin's errors and/or omissions in developing and reporting the results of the 5805 Vero Way Appraisal, as alleged in this Count, Akin failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal in violation of USPAP Standard 1 and SR 1-1(a) and (b), which states:

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

17. Based on Akin's errors and/or omissions in developing and reporting the results of the 5805 Vero Way Appraisal, as alleged in this Count, Akin committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b), which states:

In developing a real property appraisal, an appraiser must:

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

18. Based on Akin's errors and/or omissions in developing and reporting the results of the 5805 Vero Way Appraisal, as alleged in this Count, Akin rendered appraisal services in a careless and/or negligent manner in violation of USPAP Standard 1 and SR 1-1(c), which states:

In developing a real property appraisal, an appraiser must:

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

19. Based on Akin's errors and/or omissions in developing and reporting the results of the 5805 Vero Way Appraisal, as alleged in this Count, Akin failed to clearly

and accurately set forth the appraisal in a manner that would not be misleading and violated USPAP Standard 2 and SR 2-1(a), which states:

Each written and oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading[.]

20. Based on Akin's errors and/or omissions in developing and reporting the results of the 5805 Vero Way Appraisal, as alleged in this Count, Akin failed to prepare a report that contained sufficient information to enable the intended users of the appraisal to understand the report properly and violated USPAP Standard 2 and SR 2-1(b), which states:

Each written and oral real property appraisal report must:

...

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

21. The Ethics Rule states in regard to conduct that:

22. in violation of the Conduct provision of the USPAP Ethics Rule, which

states in part:

An appraiser must perform assignments ethically and competently, in accordance with USPAP.

.....

An appraiser must not communicate assignment results in a misleading or fraudulent manner.

An appraiser must not use or communicate a misleading or

fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

23. Akin's conduct, as alleged in this Count, demonstrates incompetency, misconduct, gross negligence, dishonesty, fraud and/or misrepresentation in the performance of the functions and/or duties of a real estate appraiser and in violation of the Ethics Rule of USPAP, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(5), RSMo, Supp. 2011.

24. Akin's conduct, as alleged in this Count, violates standards for the development and/or communication of real estate appraisals as provided in or pursuant to §§ 339.500 to 339.549, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(6), RSMo, Supp. 2011.

25. Akin's conduct, as alleged in this Count, demonstrates a failure and/or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and/or communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(8), RSMo, Supp. 2011.

26. Akin's conduct, as alleged in this Count, demonstrates negligence and/or incompetence in developing an appraisal, in preparing an appraisal report, and/or in communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(9), RSMo, Supp. 2011.

27. Each of Akin's USPAP violations, as alleged in this Count, constitutes a violation of § 339.535, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(7) and (10), RSMo, Supp. 2011.

28. Akin's conduct, as alleged in this Count, violates the professional trust and confidence he owed to his clients, the intended users of the appraisal report, and the public, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(14), RSMo, Supp. 2011.

29. Akin's conduct, as alleged in this Count, demonstrates that Akin rendered appraisal services in violation of the USPAP Ethics Rule, USPAP Standards 1 and 2, the USPAP Standards Rules cited in this Count, and § 339.535, RSMo, providing cause to discipline Akin's certification as a certificate real estate appraiser pursuant to §§ 339.532.2(5), (6), (7), (8), (9), (10) and (14), RSMo Supp. 2011.

Count II
805 Wilkes Boulevard Appraisal Report

30. MREAC adopts and incorporates paragraphs 1 through 28 above as though alleged fully herein.

31. On or about March 21, 2011, Akin completed and signed a Uniformed Residential Appraisal Report for residential real estate located at 805 Wilkes Boulevard, Columbia, Missouri, 65201 ("the 805 Wilkes Boulevard property"). The effective date of the appraisal report was March 21, 2011. This appraisal valued the property at \$90,000.

This appraisal shall be referred to hereinafter as the “805 Wilkes Boulevard Appraisal Report.”

32. The 805 Wilkes Boulevard Appraisal Report was prepared for Urban Financial Group, Inc., a Missouri corporation.

33. In preparation of the 805 Wilkes Boulevard, Akin made significant and substantial errors of omission and/or commission, including, but not limited to:

- a. Adkin failed to reconcile the differences in the data between the Sales Approach and Cost Approach, nor reconcile the suitability of the Sales Approach over the Cost Approach.
- b. Akin failed to accurately and clearly set forth the appraisal in a manner that was not misleading, by failing to properly support the adjustments made to reduce the effective age of the subject property to eight (8) years when its actual age was seventeen (17) years.

34. In the preparation of the Sales Comparison Analysis in the 805 Wilkes Boulevard Appraisal Report, Akin made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Akin failed to analyze such comparable sales data as available by failing to account for the basement in sale comparable # 3.
- b. Adkin committed a substantial error that significantly affected the appraisal by incorrectly reporting the specific zoning classification as “R-1 Single

Family Residential” and zoning description as, “Residential Typical,” when in reality the subject property is zone “R-3” and the description is “Medium Density, Multiple Family Dwelling.” In addition, Adkin rendered the appraisal in a careless manner by failing to have the sale and listing totals match in all areas of the report, which in aggregate affects the credibility of the results of the report.

35. In the preparation of the Cost Approach in the 805 Wilkes Boulevard Appraisal Report, Akin made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Adkin did not correctly employ recognized methods and techniques necessary to produce a credible appraisal by failing to include any support for the site value in the Cost Approach.
- b. Akin failed to provide support for the site value of the subject property, and failed to analyze comparable cost data due to using incorrect cost data base figures.

36. The 805 Wilkes Boulevard Appraisal Report overestimates the value, is not credible, and is misleading.

37. Based on Akin’s errors and/or omissions in developing and reporting the results of the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin failed to

correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal in violation of USPAP Standard 1 and SR 1-1(a).

38. Based on Akin's errors and/or omissions in developing and reporting the results of the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b).

39. Based on Akin's errors and/or omissions in developing and reporting the results of the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin rendered appraisal services in a careless and/or negligent manner in violation of USPAP Standard 1 and SR 1-1(c).

40. Based on Akin's errors and/or omissions in developing and reporting the results of the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin failed to clearly and accurately set forth the appraisal in a manner that would not be misleading and violated USPAP Standard 2 and SR 2-1(a).

41. Based on Akin's errors and/or omissions in developing and reporting the results of the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin failed to prepare a report that contained sufficient information to enable the intended users of the appraisal to understand the report properly and violated USPAP Standard 2 and SR 2-1(b).

42. By failing to provide adequate support for the reasoning and conclusions in the 805 Wilkes Boulevard Appraisal, as alleged in this Count, Akin failed to summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analysis, opinions, and conclusions, in violation of USPAP SR 2-2(b)(viii).

43. Akin's conduct, as alleged in this Count, demonstrates incompetency, misconduct, gross negligence, dishonesty, fraud and/or misrepresentation in the performance of the functions and/or duties of a real estate appraiser, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(5), RSMo, Supp. 2011.

44. Akin's conduct, as alleged in this Count, violates standards for the development and/or communication of real estate appraisals as provided in or pursuant to §§ 339.500 to 339.549, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(6), RSMo, Supp. 2011.

45. Akin's conduct, as alleged in this Count, demonstrates a failure and/or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and/or communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(8), RSMo, Supp. 2011.

46. Akin's conduct, as alleged in this Count, demonstrates negligence and/or incompetence in developing an appraisal, in preparing an appraisal report, and/or in

communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(9), RSMo, Supp. 2011.

47. Each of Akin's USPAP violations, as alleged in this Count, constitutes a violation of § 339.535, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(7) and (10), RSMo, Supp. 2011.

48. Akin's conduct, as alleged in this Count, violates the professional trust and confidence he owed to his clients, the intended users of the appraisal report, and the public, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(14), RSMo, Supp. 2011.

49. Akin's conduct, as alleged in this Count, demonstrates that Akin rendered appraisal services in violation of the USPAP Standards 1 and 2, the USPAP SR 1-1(a), 1-1(b), 1-1(c), 2-1(a), 2-1(b), and 2-2(b)(viii), and § 339.535, RSMo, providing cause to discipline Akin's certification as a certificate real estate appraiser pursuant to §§ 339.532.2(5), (6), (7), (8), (9), (10) and (14), RSMo, Supp. 2011.

Count III
2600-2602 Face Rock Court Appraisal Report

50. MREAC adopts and incorporates paragraphs 1 through 49 above as though alleged fully herein.

51. On or about February 8, 2011, Akin completed and signed a Uniformed Residential Appraisal Report for residential real estate located at 2600-2602 Face Rock

Court, Columbia, Missouri, 65203-5751 (“the 2600-2602 Face Rock Court property”).

The effective date of the appraisal report was February 8, 2011. This appraisal valued the property at \$586,560. This appraisal shall be referred to hereinafter as the “2600-2602 Face Rock Court Appraisal Report.”

52. The 2600-2602 Face Rock Court Appraisal Report was prepared for Mortgage Solutions of Colorado, LLC, a foreign corporation registered in Missouri.

53. In preparation of the 2600-2602 Face Rock Court, Akin made significant and substantial errors of omission and/or commission, including, but not limited to:

- a. Adkin failed to correctly develop an opinion of the highest and best use of the real estate by not taking into consideration the highly unusual nature of the subject property’s improvement with a detailed highest and best use analysis due to their engineering to become condominium units if desired.
- b. Adkin failed to properly develop an opinion of site value by an appropriate appraisal method of technique by not having support for the site value and failed to analyze comparable cost data as available to estimate the cost of new improvements by listing the effective date of the cost data six months ahead in the future from the effective date of the report.
- c. Akin failed to reconcile the Cost Approach with the Income Approach, as well failed to comment on the applicability of the Cost Approach.

- d. Akin failed to clearly and accurately set forth the appraisal in a manner that was not misleading and failed to include sufficient information to enable the intended users of the appraisal to understand the report properly by including no support for the Gross Rent Multiplier used in the analysis, failing to support forecasted rents with Rental Comps and not completing the Sales Approach; by failing to include detail on highest and best use analysis, and correctly stating whether the owner or tenant pays for the utilities.

54. In the preparation of the Sales Comparison Analysis in the 2600-2602 Face Rock Court Appraisal Report, Akin made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Akin failed to complete the Sales Comparison Approach in the report, failed to offer support for the Gross Rent Multiplier used in the analysis, failed to show support for the final market value opinion of the subject property at \$568,560 when the Cost Approach value was \$421,153, failed to provide site sales to support the site value, failed to correctly mark that tenant, not owner, pays for utilities, and failed to correctly note the specific zoning classification which is "R-2" and "Two Family Development," not "R-3" and "Multi-Family Residential."

- b. Akin failed to analyze such comparable sales data as available by failing to account for the basement in sale comparables #2 and # 1 and by failing to complete the Sales Comparison Approach.

55. In the preparation of the Income Approach in the 2600-2602 Face Rock Court Appraisal Report, Akin made significant and/or substantial errors of omission and/or commission, including, but not limited to:

- a. Akin failed to correctly analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property by only using rental data from the same development and where one unit, 2600 Face Rock Court was listed on MLS with a rent of \$2,000 in the same time period that the subject properties were appraised and evaluated to be \$2,400. Only one property in the development listed a rent of \$2,400, the other units in the development were between \$1,600 to \$2,200.
- b. The analysis of the rental data does not support the estimated rent for the subject at \$2,400 per unit, since the aforementioned rents in paragraph 48 do not support this conclusion. Likewise, Akin failed to provide support for the Gross Rent Multiplier which was used in the analysis.

56. The 2600-2602 Face Rock Court Appraisal Report overestimates the value, is not credible, and is misleading.

57. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal in violation of USPAP Standard 1 and SR 1-1(a).

58. Based on Akin's errors and/or omissions in developing and reporting the results of the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin committed substantial errors of omission and/or commission that significantly affected the appraisal in violation of USPAP Standard 1 and SR 1-1(b).

59. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin rendered appraisal services in a careless and/or negligent manner in violation of USPAP Standard 1 and SR 1-1(c).

60. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin clearly failed to analyze such comparison sales data as available to indicate a value of conclusion in violation of USPAP Standard 1 and SR 1-4(a) and 1-4(b).

61. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin clearly failed reconcile the differences in the data between the Sales Approach and Cost Approach, nor reconcile the suitability of the Sales Approach over the Cost Approach, in violation of USPAP Standard 1 and SR 1 – 6(a) and (b) which state:

In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches used; and

(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

62. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin failed to prepare a report that contained sufficient information to enable the intended users of the appraisal to understand the report properly and violated USPAP Standard 2 and SR 2-1(b).

63. Based on Akin's errors and/or omissions in preparing the 2600-2602 Face Rock Court Appraisal Report, as alleged in this Count, Akin communicated results in a misleading and/or fraudulent manner, in violation of the Conduct provision of the USPAP Ethics Rule.

64. Akin's conduct, as alleged in this Count, demonstrates incompetency, misconduct, gross negligence, dishonesty, and/or misrepresentation in the performance of the functions and/or duties of a real estate appraiser, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(5), RSMo, Supp. 2011.

65. Akin's conduct, as alleged in this Count, violates standards for the development and/or communication of real estate appraisals as provided in or pursuant to

§§ 339.500 to 339.549, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(6), RSMo, Supp. 2011.

66. Akin's conduct, as alleged in this Count, demonstrates a failure and/or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, and/or communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(8), RSMo, Supp. 2011.

67. Akin's conduct, as alleged in this Count, demonstrates negligence and/or incompetence in developing an appraisal, in preparing an appraisal report, and/or in communicating an appraisal, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(9), RSMo, Supp. 2011.

68. Each of Akin's USPAP violations, as alleged in this Count, constitutes a violation of § 339.535, RSMo, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(7) and (10), RSMo, Supp. 2011.

69. Akin's conduct, as alleged in this Count, violates the professional trust and confidence he owed to his clients, the intended users of the appraisal report, and the public, providing cause to discipline his real estate appraiser certification pursuant to § 339.532.2(14), RSMo, Supp. 2011.

70. Akin's conduct, as alleged in this Count, demonstrates that Akin rendered appraisal services in violation of the USPAP Ethics Rule, USPAP Standards 1 and 2, the

USPAP SR 1-1, 1-4, 1-6, 2-1, and § 339.535, RSMo, providing cause to discipline Akin's certification as a certificate real estate appraiser pursuant to §§ 339.532.2(5), (6), (7), (8), (9), (10) and (14), RSMo, Supp. 2011.

CONCLUSION

WHEREFORE, MREAC respectfully prays this Commission issue Findings of Fact and Conclusions of Law that cause exists for the MREAC to discipline the certification of Akin as a certificate for violations of §§ 339.500 through 339.549, RSMo, as amended, and MREAC's regulations promulgated thereunder, and for such other relief as the Commission deems appropriate.

Respectfully submitted,

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