

**BEFORE THE MISSOURI  
STATE REAL ESTATE APPRAISERS COMMISSION**

<b>MISSOURI REAL ESTATE APPRAISERS COMMISSION,</b>	)	
	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>No. 12-1318RA PV</b>
	)	
<b>TAMRA CAPE,</b>	)	
	)	
<b>Respondent.</b>	)	

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

At its scheduled meeting on December 8, 2015, and pursuant to notice described in the Findings of Fact, the Missouri State Real Estate Appraisers Commission (MREAC) took up the probation violation complaint alleging that Tamara Cape (Respondent or Cape) has failed to comply with the terms of her probation.

The MREAC appeared at the hearing through Assistant Attorney General Craig Jacobs. Pursuant to notice, Respondent appeared pro se at the hearing in person. Division of Professional Registration Legal Counsel Thomas Mark Townsend served as the MREAC's legal advisor at the hearing, during deliberations, and in the preparation of this order.

**Findings of Fact and Conclusions of Law**

1. The MREAC was established pursuant to § 339.507, RSMo,<sup>1</sup> for the purpose of executing and enforcing the provisions of §§ 339.500 through 339.549, RSMo, the Missouri Certified Licensed Real Estate Appraisers Act.
2. Respondent is a natural person and is certified by the MREAC as a state-certified residential real estate appraiser, certification number 2007012825.
3. On or about October 8, 2013, Licensee entered into a Settlement Agreement

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

and Joint Agreed Disciplinary Order ("Disciplinary Order") with the MREAC. Said Disciplinary Order became effective on October 23, 2013.

4. Under the Disciplinary Order, Respondent's residential real estate appraiser certification was placed on a two (2) year period of probation.

5. The Terms and Conditions of the Disciplinary Order state in paragraph I, page 9, of Part II, the Joint Agreed Disciplinary Order:

I. "During the disciplinary period, Cape shall comply with all provisions of §§ 339.500 through 339.549, RSMo, all rules and regulations promulgated thereunder, and all federal and state laws. "State" includes the state of Missouri, and all other states and territories of the United States. Any cause to discipline Cape's certification as a residential real estate appraiser under § 339.532.2, RSMo, as amended, that accrues during the disciplinary period shall also constitute a violation of this Settlement Agreement."

#### **Edgewood Circle Property Appraisal**

6. On or about January 22, 2014, during Respondent's disciplinary period, Respondent completed and signed a "summary appraisal report" for residential real estate located at 231 Edgewood Circle, Macks Creek, Missouri 65786 ("Edgewood Circle Property"). The effective date of the appraisal report was January 13, 2014, and the appraisal valued the property at \$135,000.

7. Pursuant to § 339.535, RSMo, and the terms and conditions of the Disciplinary Order, Respondent was required to develop and report the results of each appraisal in compliance with the Uniform Standards of Professional Appraisal Practice, 2014-2015 Edition (USPAP).

8. Respondent prepared the Edgewood Circle Property Appraisal Report for Mortgage Solutions of Colorado.

9. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent failed to mention and/or analyze the fact that the appraisal value of \$135,000, is significantly above a recent listing of the property at

\$102,900. Respondent asserted the owner was “desperate” to sell the property at the time of the recent listing and that her determination of the value of the property was based on information about the comparable sales taken from the county assessor’s office, as she deemed that a more reliable source than the MLS sheets[trans p.58 ].

10. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent indicated in the “Site” section that part of the Edgewood Circle Property is zoned “condo,” but there is no county zoning in the area; in addition, the “zoning” discussion in the Addendum also inconsistently discusses “condo” zoning while stating there is no zoning, and references a site map that does not identify any zoning features. Respondent asserted she did not want to discuss the zoning information as she promised the owner she would not disclose the information [trans p. 69]. Respondent acknowledged that the county does not have zoning, except around the lake [trans p. 70]. She noted that the property in question was not around the lake, but that she specifically meant to list it as zoned “condo” [trans. 70].

11. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal, Report Respondent, in the “Improvements” section, stated that the Edgewood Circle Property is on a “slab”; the Additional Comment section of the Edgewood Circle Property Report states that the Edgewood Circle Property has a “full basement”; while the Addendum to the Edgewood Circle Property report states that the Edgewood Circle Report is on “crawl space.” Respondent asserted that the description in her addendum was an error [trans p. 71].

12. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent stated that in the Addendum the property has a “deck,” while the Sales Comparison Approach section of the Report states the property has a “patio”. Respondent asserted in her addendum on the 4<sup>th</sup> paragraph down, where she

indicated a "15 -by- 29 deck," it should have said "patio" and was a typographical error [trans p. 74].

13. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent listed the city for Comparable Sale #1 as being Macks Creek, Missouri in the Sales Comparison Approach section. Comparable Sale #1 is actually in Camdenton, Missouri. Respondent did not address this in her testimony.

14. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent failed to make proper adjustments for the comparable sales having a fireplace, jetted tub, hot tub (Comparable Sale #1); attached garages, barns and out- buildings (Comparable Sales #3 and #4) that the subject property did not have. Comparable Sale #1 had a significant age difference than that of the subject property which was not considered. Respondent asserted that her appraisal was done with the comparables that were available and the most comparable to the [subject ] property [trans p. 63].

15. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent used Comparable Sale #1, which required a large adjustment for basement area and finished basement area, rather than better available comparable sales in the Sale Comparison Approach section. Respondent asserted that the Edgewood Circle property is an earth contact home "on a slab" and she compared it to a ranch style home with a basement (Comparable Sale #2). She noted that this was her common practice, but that a reference to "crawl space" was a typographical error. [trans p.71].

16. Petitioner asserted that in preparing and reporting the Edgewood Circle Property Appraisal Report, Respondent failed to adequately reconcile the quality and quantity of data available and analyzed within the Sales Comparison Approach section by

providing an inadequate explanation for why Comparable Sale #1 was given the most weight. Comparable Sale # 1 was a newer home with the largest age difference and is a conventional ranch style home instead of an earth contact home. Comparable Sale #4 was an earth contact home near the Edgewood Circle Property with a similar site. Respondent noted that it was her opinion that she could not make an adjustment based on just one sale [trans p. 68].

17. Based upon the evidence presented, Respondent's testimony at hearing regarding Respondent's Edgewood Circle Property Appraisal Report was not determined to be credible and/or adequate to rebut Petitioner's allegations of USPAP violations regarding Respondent's Edgewood Circle Property Appraisal Report.

18. Respondent's Edgewood Circle Property Appraisal Report lacked credibility, was misleading, and was developed and reported in violation of USPAP Standards 1 and 2, which state:

Standard 1: 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.

Standard 2: 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.

19. Respondent's errors and/or omissions in developing and reporting the results of the Edgewood Circle Property Appraisal; specifically a lack of discussion regarding the recent listing of the property, constituted a failure by Respondent to correctly employ recognized methods and techniques necessary to produce a credible appraisal, in violation of USPAP Standard Rule (SR) 1-1(a), 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 is necessary to produce a credible

appraisal[.]

20. Respondent's errors and/or omissions in developing and reporting the results in the Edgewood Circle Property Appraisal Report; specifically substantial errors in Respondent's reconciliation and utilization of comparables, constituted significantly affected the appraisal in violation of the 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 the appraisal[.]

21. Respondent's errors and/or omissions in developing and reporting the results in the Edgewood Circle Property Appraisal Report; specifically the inconsistencies in the Report (i.e.: slab, crawl space, basement garage, and patio/deck), significantly affected the appraisal, in that appraisal services were rendered in a careless and/or negligent manner in violation of the 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.

22. Respondent's errors and/or omissions regarding the physical, legal, and economic attributes of Edgewood Circle Property; specifically the inadequate description of the zoning of the site , violated USPAP SR 1-2(e)(i) which states:

In developing a real property appraisal, an appraiser must:

. . . .

(e) identify the characteristics of the property that are relevant

to the type and definition of value and intended use of the appraisal, including:

(i) its location and physical, legal and economic attributes[.]

23. Respondent's errors and/or omissions in developing and reporting the results of the Edgewood Circle Property Report where Respondent made unsupported assumptions or premises about market area trends; specifically inaccuracies in the zoning, violated USPAP SR 1-3(a)(i) which states:

(a) identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends[.]

Comment: An appraiser must avoid making an unsupported assumption or premise about market area trends, effective age, and remaining life.

24. Respondent's errors and/or omissions in developing and reporting the results of the Edgewood Circle Property Appraisal Report; specifically where Respondent missed comparable sales that would have been more comparable than those used by Respondent in the Sales Comparison Approach, violated USPAP Standard 1 and SR 1-4(a), which states:

Standards Rule 1-4(a)

In developing a real property appraisal, an appraiser must collect, verify and analyze all information necessary for credible assignment results.

(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.

25. Respondent's errors and/or omissions regarding the reconciliation of the approaches to value in the Edgewood Circle Property Appraisal Report; specifically where Respondent inadequately reconciled comparable sales data within the Sales Comparison Approach and violated USPAP Standard 1 and SR 1-6(a), which states:

In developing a real property appraisal, an appraiser must:

. . . .

(a) reconcile the quality and quantity of data available and analyzed within the approaches used[.]

26. Respondent's errors and/or omissions in developing and reporting the results in the Edgewood Circle Property Appraisal Report, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading; specifically the inconsistency in the description of the subject property and her choice of comparables that, in violation of USPAP Standard 2 and SR 2-1(a), which states:

Each written or oral real property appraisal report must:

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

27. Respondent's commission of errors and/or omissions in developing and reporting the results in the Edgewood Circle Property Appraisal Report, Respondent failed to prepare a report that contained sufficient information to enable the intended users of the appraisal to understand the report properly in violation of USPAP Standard 2 and SR 2-1(b), which states:

Each written or oral real property appraisal report must:

. . . .

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly[.]

28. Respondent's errors and/or omissions in her failure to summarize information sufficiently to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment regarding the Edgewood Circle Property violated USPAP SR 2-2(a)(iii), which states:

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

. . .

(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment[.]

29. Respondent failed to provide adequate support for her conclusions and approaches to value in the Edgewood Circle Property Appraisal Report, in that Respondent did not summarize the information analyzed, the appraisal procedures followed, and the reasoning that supported the analysis, data, and conclusions, in violation USPAP SR 2-2(a)(viii), which states:

. . .

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

. . .

(viii) 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[.]

30. Respondent's violation of the USPAP Standards 1 and 2, and § 339.535, RSMo, constituted a violation of paragraph I, page 9, of Part II, the Joint Agreed Disciplinary Order, thus providing cause to further discipline Respondent's certification/license under § 324.042, RSMo.

**Conclusions of Law**

31. The MREAC has jurisdiction in this proceeding, pursuant to the Disciplinary Order, effective October 23, 2013, and section II, paragraphs 3, 4 and 7 on pages 10-11

therein. In addition, § 324.042, RSMo, allows the MREAC to determine whether additional discipline is appropriate based upon Respondent's violation of the terms and conditions of the previous Disciplinary Order. The asserted probation violations took place during Respondent's initial disciplinary period and, as such, jurisdiction is appropriate.

32. The Disciplinary Order, paragraphs 3, 4 and 7, on pages 10 and 11 state:

3. Upon the expiration of the disciplinary period, the certification of Cape shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the MREAC determines that Cape has violated any term or condition of this Settlement Agreement, the MREAC may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline Cape's certification.

4. No additional discipline shall be imposed by the MREAC pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the MREAC as a contested in accordance with the provisions of Chapter 536, RSMo.

7. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the MREAC may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Cape agrees and stipulates that the MREAC has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

33. Section 324.042, RSMo, provides:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

34. Respondent violated the terms and conditions of discipline set forth in the Disciplinary Order, as described in the Findings of Fact of this Order.

**Decision and Order**

It is the decision of the MREAC that Respondent, Tamara Cape, has violated the terms of the previous Disciplinary Order during the disciplinary period, and that her certification/licensure is, therefore, subject to disciplinary action.

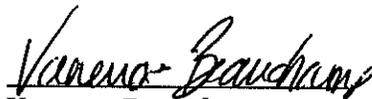
Based upon Respondent's violation of the Disciplinary Order, during the disciplinary period of October 23, 2013 through October 23, 2015, the MREAC orders that Respondent's state-certified residential real estate appraiser, certification number 2007012825, be placed on three (3) years' PROBATION, effective the date of this Order. Said three year probationary period shall require continued compliance with all the terms and conditions referenced in the previous Disciplinary Order, with the effective October 23, 2013, incorporated by reference herein. In addition, Respondent is ordered to take qualifying education classes in report writing, fifteen (15) hours and in sales comparison, fifteen (15) hours.

Respondent shall be entitled to practice as a state-certified residential real estate appraiser provided Respondent remains compliant with the terms and conditions of her probation in accordance with this Order and aforementioned incorporated Disciplinary Order.

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

SO ORDERED this 16th day of February, 2016.

**MISSOURI REAL ESTATE APPRAISERS  
COMMISSION**

  
Vanessa Beauchamp,  
Executive Director