

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BOBBY DON APPLE  
TX-1321945-G

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DOCKETED COMPLAINT NO. 09-270

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Bobby Don Apple (Respondent).

In order to conclude this matter Bobby Don Apple neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, Bobby Don Apple, is a state certified general real estate appraiser who currently holds and held certification number TX-1321945-G during all times material to the above-noted complaint case.
2. Respondent appraised 8512 CR 167, McKinney, Collin County, Texas 75071 ("the property") on or about July 6<sup>th</sup>, 2007.
3. On or about July 21<sup>st</sup>, 2009, Michael S. Cook filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report for the property that contained various USPAP violations.
4. On or about July 23<sup>rd</sup>, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to this complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.404 and 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
  - b) Respondent failed to provide his supporting rationale for his determination of the property's highest and best use;
  - c) Respondent failed to use an appropriate method or technique to develop an opinion of site value;
  - d) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements, accrued depreciations, and comparable sales data adequately;
  - e) Respondent failed to employ recognized methods and techniques in the cost approach and sales comparison approach;
  - f) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.
6. Respondent made material misrepresentations and omitted material facts in his appraisal report for the property as detailed above.

### **CONCLUSIONS OF LAW**

- 1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
- 2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards: 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).
- 3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification revoked with that revocation being fully probated for a period of eighteen months (18), under the following condition:
  - i. During the probated, eighteen month revocation period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real

estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this period of probation within the twenty days of notice of any such request;

ii. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order;

- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- d. Attend and complete a minimum, 7 classroom-hour course in Quality Control;
  - i. No examination shall be required for the 7 classroom-hour course;
- e. Pay to the Board an administrative penalty of \$1,500.00; and
- f. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be timely completed within twenty days of the date this Agreed Final Order is approved.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure or certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE REVOCATION** of the Respondent's license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS**

APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 3 day of February, 2011.

Bobby Don Apple  
BOBBY DON APPLE

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of February, 2011, by BOBBY DON APPLE, to certify which, witness my hand and official seal.

Vicki Harper  
Notary Public Signature



Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 18<sup>th</sup> day of February, 2011.

Troy Beaulieu  
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 18<sup>th</sup> day of February, 2011.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 18<sup>th</sup> day of February, 2011.

  
~~James B. Ratliff, Chairperson~~ Luis De La Garza  
Texas Appraiser Licensing and Certification Board