

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

ROBERT KENNEDY ARNOLD  
TX-1324236-R

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DOCKETED COMPLAINT NO. 05-071

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AGREED FINAL ORDER

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

On this the 5<sup>th</sup> day of October, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Robert Kennedy Arnold, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order.

**FINDINGS OF FACT**

1. Respondent Robert Kennedy Arnold, a state certified residential real estate appraiser, holds certification number TX-1324236-R, and has been certified during all times material to the findings of fact and conclusions of law contained in this Order.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§ 153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about October 31<sup>st</sup>, 2003, October 23<sup>rd</sup>, 2003, and November 20<sup>th</sup>, 2003, respectively, Respondent appraised the properties located at: 103 Arbor Lane, Lancaster, Dallas County, Texas ("the Arbor property"), 1519 Baker Drive, Cedar Hill, Dallas County, Texas ("the Baker property"), and 7337 Brazos Avenue, Fort Worth, Texas Tarrant County, Texas ("the Brazos property").
4. On February 4<sup>th</sup>, 2005, TALCB received a staff-initiated complaint against Respondent from Jack McComb, in accordance with TEX. OCC. CODE § 1103.451. The complaint was based upon a referral from Jane Hall, Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD"). HUD alleged that Respondent's appraisal reports on the properties contained various violations of the Uniform Standards of Professional Appraisal Practice.
5. On or about February 4<sup>th</sup>, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOVT CODE ANN. § 2001 et. seq., notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response was received.

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6. The Enforcement Division concluded that the Respondent's appraisal report on the Arbor property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Ethics Rule – Respondent's work file lacked much of the data, information and documentation necessary to support the appraiser's opinions and conclusions in the report in violation of the record keeping requirements;
- b) USPAP Supplemental Standards Rule – Respondent failed to adhere to published supplemental standards imposed by HUD;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description for the Arbor property adequately;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description for the Arbor property adequately;
- e) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for her determination of the Arbor property's highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the Arbor property's site value;
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements for the Arbor property;
- h) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in his cost approach analysis;
- i) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile comparable sales data adequately;
- j) USPAP Standards 1-1(a) & 1-4(a) – Respondent failed to employ recognized methods and techniques in his sales comparison approach analysis;
- k) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal of the Arbor property;
- l) USPAP Standard 1-1(a) – Respondent did not employ recognized methods and techniques correctly to produce a credible appraisal;

- m) USPAP Standard 1-1(b) – Respondent committed substantial errors of omission or commission that significantly affected her appraisal of the Arbor property;
  - n) USPAP Standard 1-1(c) – Respondent produced an appraisal report for the Arbor property that contained careless or negligent errors;
  - o) USPAP Standard 2-1(a) – Respondent produced an appraisal report that was misleading;
  - p) USPAP Standard 2-1(b) – Respondent's appraisal report did not contain sufficient information to enable the intended users of the appraisal to understand the report properly;
7. The Enforcement Division concluded that the Respondent's appraisal report on the Baker property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:
- a) USPAP Ethics Rule – Respondent's work file lacked much of the data, information and documentation necessary to support the appraiser's opinions and conclusions in the report in violation of the record keeping requirements;
  - b) USPAP Supplemental Standards Rule – Respondent failed to adhere to published supplemental standards imposed by HUD;
  - c) USPAP Standards 1-2 (e)(iv) & 2-2(b)(ix) – Respondent failed to consider and report the mandatory homeowner's association and whether the developer/builder was in control of it;
  - d) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for her determination of the Baker property's highest and best use;
  - e) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the Baker property's site value;
  - f) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements for the Baker property;
  - g) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile accrued depreciation;
  - h) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in his cost approach analysis;

- i) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile comparable sales data adequately;
  - j) USPAP Standards 1-1(a) & 1-4(a) – Respondent failed to employ recognized methods and techniques in his sales comparison approach analysis;
  - k) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal of the Baker property;
  - l) USPAP Standard 1-1(a) – Respondent did not employ recognized methods and techniques correctly to produce a credible appraisal;
  - m) USPAP Standard 1-1(b) – For the reasons noted above, Respondent committed substantial errors of omission or commission that significantly affected her appraisal of the Baker property;
  - n) USPAP Standard 1-1(c) – As detailed above, Respondent produced an appraisal report for the Baker property that contained careless or negligent errors;
  - o) USPAP Standard 2-1(a) – As outlined above, Respondent produced an appraisal report that was misleading; and,
  - p) USPAP Standard 2-1(b) – Respondent's appraisal report did not contain sufficient information to enable the intended users of the appraisal to understand the report property;
8. The Enforcement Division concluded that the Respondent's appraisal report on the Brazos property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:
- a) USPAP Ethics Rule – Respondent's work file lacked much of the data, information and documentation necessary to support the appraiser's opinions and conclusions in the report in violation of the record keeping requirements;
  - b) USPAP Supplemental Standards Rule – Respondent failed to adhere to published supplemental standards imposed by HUD;
  - c) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a brief summary of his rationale for her determination of the Brazos property's highest and best use;
  - d) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to use an appropriate method or technique to develop an opinion of the Brazos property's site value;

- e) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements for the Brazos property;
- f) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile accrued depreciation;
- g) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in his cost approach analysis;
- h) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent did not collect, verify, analyze and reconcile comparable sales data adequately;
- i) USPAP Standards 1-1(a) & 1-4(a) – Respondent failed to employ recognized methods and techniques in his sales comparison approach analysis;
- j) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal of the Brazos property;
- k) USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent has failed to analyze all sales of the Brazos property within 3 years prior to the effective date of the appraisal;
- l) USPAP Standard 1-1(a) – Respondent did not employ recognized methods and techniques correctly to produce a credible appraisal;
- m) USPAP Standard 1-1(b) – For the reasons noted above, Respondent committed substantial errors of omission or commission that significantly affected her appraisal of the Brazos property;
- n) USPAP Standard 1-1(c) – As detailed above, Respondent produced an appraisal report for the Brazos property that contained careless or negligent errors;
- o) USPAP Standard 2-1(a) – As outlined above, Respondent produced an appraisal report that was misleading; and,
- p) USPAP Standard 2-1(b) – Respondent's appraisal report did not contain sufficient information to enable the intended users of the appraisal to understand the report properly;

#### CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, Tex. Occ. Code §§ 1103.451–1103.5535.

2. Respondent violated the following USPAP provisions as prohibited by 22 Tex. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Ethics Rule, USPAP Supplemental Standards Rule and USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii), 1-2(e)(iv) & 2-2(b)(ix), 1-3(b) & 2-2(b)(x), 1-4(b)(i) & 2-2(b)(ix), 1-4(b)(ii) & 2-2(b)(ix), 1-4(b)(iii) & 2-2(b)(ix), 1-1(a) & 1-4(b), 1-4(a) & 2-2(b)(ix), 1-1(a) & 1-4(a), 1-5(a) & 2-2(b)(ix), 1-5(b) & 2-2(b)(ix), 1-1(e), 1-1(b), 1-1(c), 2-1(a), and 2-1(b).

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

1. Pay to the Board an Administrative Penalty of \$1,000.00;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Attend and complete a minimum, 30 classroom-hour course in Residential Case Studies or Sales Comparison Approach; and,
4. Comply with all 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 completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in **IMMEDIATE SUSPENSION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

**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. 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 certification.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION 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 suspension

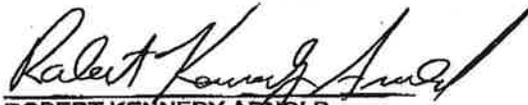
or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

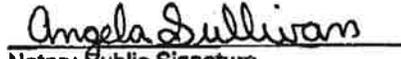
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or 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 1 day of October, 2007.

  
ROBERT KENNEDY ARNOLD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1<sup>st</sup> day of October, 2007, by ROBERT KENNEDY ARNOLD, to certify which, witness my hand and official seal.

  
Notary Public Signature

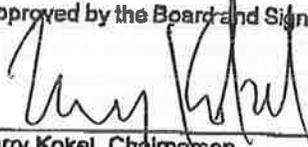
Angela Sullivan  
Notary Public's Printed Name



Signed by the Commissioner this 4<sup>th</sup> day of October, 2007.

  
Timothy R. Irvine, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 5 day of oct, 2007.

  
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Larry Kokel, Chairperson  
Texas Appraiser Licensing and Certification Board