

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO. 04-044

BRYAN ALAN CARRELL
TX-1320465-G

CONSENT ORDER

On this the 5th day of October, 2006⁷, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Bryan Alan Carrell, (Respondent). 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 Bryan Alan Carrell is a State Certified General Real Estate Appraiser, holds certification number TX-1320465-G, and has been certified by the Board since April 16TH, 1991.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ' 1103 et. seq. (Vernon 2005) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE ' ' 153, 155, 157 (West 2005) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about August 12th, 2003, the Respondent appraised the subject property located approximately 1,500 feet south of F.M. 3097 / Horizon Road in Heath, Rockwall County, Texas, for the client, North Texas Municipal Water District.
4. On or about January 2nd, 2004, the Complainant, Mr. John Scott of Heath, Texas, complained to the Board alleging that the Respondent had produced an appraisal report that did not comply with the Uniform Standards of Professional Appraisal Practice ("USPAP"). Complainant also filed a complaint with the Appraisal Institute concerning the subject matter of the complaint in this proceeding. The complaint filed with the Appraisal Institute was ultimately closed on April 12th, 2005 with no action being taken by the Appraisal Institute against Mr. Carrell.
5. On or about March 18th, 2004, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. ' 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent=s response was received.
6. On March 7th, 2006, Respondent appeared at an Informal Conference in response to an invitation from the Enforcement Division. The Enforcement Division was represented at the

Informal Conference by Deloris Kraft-Longoria, Investigator for the Board; Jack McComb, Investigator for the Board; Jeff Strawmyer, Investigator for the Board; and Troy Beaulieu, Attorney for the Board. Respondent was represented by Lewis Isaacks, but appeared without legal counsel of his own choosing. Also present was Respondent's wife.

7. The Enforcement Division contends that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- (1) USPAP Standard 2-2(b). Respondent failed to prominently state the report option used. Instead the appraisal is titled "Special Commissioners' Handout". A complete appraisal was not performed.
- (2) USPAP Standards 1-2(b) & 2-2(b)(ii). Respondent's report does not identify the intended use of Respondent's opinions and conclusions.
- (3) USPAP Standards 1-2(c) & 2-2(b)(v). Respondent failed to identify and state the purpose of his appraisal report.
- (4) USPAP Standards 1-2(f) & 2-2(b)(vii). Respondent did not report the scope of his work (i.e. the extent of the process of collecting, confirming and reporting data).
- (5) USPAP Standards 1-5(a) & 2-2(b)(ix). Respondent failed to indicate in his report whether he analyzed all agreements of sale, options or listings of the subject property.
- (6) USPAP Standards 1-5(b) & 2-2(b)(ix). Respondent failed to report the subject's sales history for three (3) years prior to the effective date of the appraisal.
- (7) USPAP Standard 1-1(b). Respondent's appraisal report omitted numerous items required by USPAP such as intended use, scope of work, market value definition, exposure time, and reconciliation. In addition, Respondent did not provide the requisite support and/or discussion of the subject's improvements and adjustments to the comparable sales.

8. The Enforcement Division contends that the Respondent violated 22 TEX. ADMIN. CODE ' ' 153.20(a)(3) and 155.1(a) of the Rules of the Board by failing to conform to USPAP in effect at the time of the appraisal report.

9. The Respondent denies, and continues to deny, that his report violated USPAP.

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. (Vernon 2005).
2. Respondent violated the following Rules of USPAP as prohibited by 22 TEX. ADMIN. CODE ' ' 153.20(a)(3) and 155.1(a): USPAP Standards 2-2(b), 1-2(b) & 2-2(b)(ii), 1-2(c) & 2-2(b)(v), 1-2(f) & 2-2(b)(vii), 1-5(a) & 2-2(b)(ix), 1-5(b) & 2-2(b)(ix), and 1-1(b).

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

- a. Pay to the Board an Administrative Penalty of \$750.00;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in condemnation; and,
- d. 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 Consent Order.

ALL CLASSES required by this Consent Order must be classes approved by the Board and must be completed within **FOURTEEN 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 licensure.

Failure to complete the classes required by this Consent Order or pay the administrative penalty required within the time allotted shall result in **IMMEDIATE DISCIPLINARY ACTION** per 22 TEX. ADMIN. CODE § 153.20(a)(21).

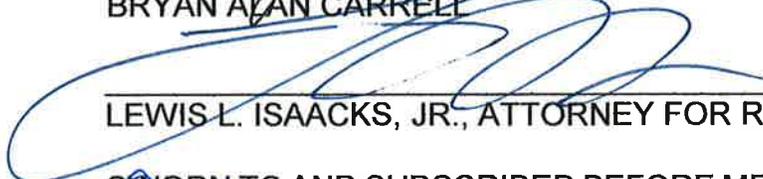
Respondent, by signing this Consent Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent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

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

THE DATE OF THIS CONSENT 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 Consent Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 1 day of October, 2007.


BRYAN ALAN CARRELL


LEWIS L. ISAACKS, JR., ATTORNEY FOR RESPONDENT

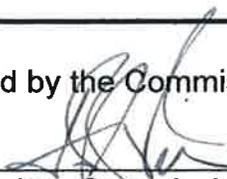
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1st day of October, 2007, by BRYAN ALAN CARRELL, to certify which, witness my hand and official seal.


Notary Public Signature

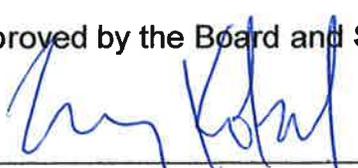
JEAN BARTON GIPSON
Notary Public's Printed Name



Signed by the Commissioner this 4th day of October, 2007.


Tim Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

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


Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board