

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ISRAEL R. GALINDO
TX-1337554-R

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DOCKETED COMPLAINT NO. 13-124
& 14-052

AGREED FINAL ORDER

On the 21 day of Feb, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Israel R. Galindo (the "Respondent").

In order to conclude this matter, Respondent 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.

FINDINGS OF FACT

1. Respondent Israel R. Galindo is a Texas state certified residential real estate appraiser who holds certification number TX-1337554-R and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property located at 21363 Dogwood, Flint, Texas ("the Dogwood property"), 528 West 5th Street, Tyler, Texas ("the 5th Street property") and 12208 Cross Fence Trail, Tyler, Texas ("the Cross Fence property") and 14901 Amber Leaf Court in Tyler, Texas ("the Amber Leaf property") (collectively, the "properties") on or about July 1st, 2013, July 31st, 2013, May 10th, 2013 and December 5th, 2012, respectively.
3. Thereafter, a complaint with respect to the Amber Leaf property was filed with the Board by Dwaine Daugherty, a real estate appraiser. The complaint alleged that the Respondent produced an appraisal report for the property that contained various deficiencies and the application of improper appraisal methods and techniques. In addition, staff-initiated complaint with respect to the Dogwood, 5th Street and Cross Fence properties was filed. This complaint was the result of a probationary audit conducted by staff stemming from Respondent's agreed final order in complaint #11-212.
4. Thereafter the Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in both complaints. Respondent was also requested to provide certain documentation to the Board, which was received.

5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to the USPAP:

- a) USPAP Record Keeping Rule – For each of the properties, Respondent failed to maintain a work file which contains the documentation necessary to support his analyses, opinions and conclusions;
- b) USPAP Competency Rule – For each of the properties, Respondent was not competent to perform the assignment and did not take those steps necessary to acquire competency;
- c) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(v)(ii) – With regard to the Amber Leaf property, Respondent failed to perform the scope of work necessary to develop credible assignment results;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description for all of the properties;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report all of the properties zoning ordinances / restrictions and/or deed restrictions for all of the properties
- f) USPAP Standards 1-3(a) & 2-2(b)(viii) – 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 for all of the properties;
- g) USPAP Standards 1-3(b) & 2-2(b)(viii) – Respondent failed to provide a summary of his rationale for his termination of the property's highest and best use for the Dogwood, 5th Street and Cross Fence properties;
- h) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – For each of the properties, Respondent failed to employ appropriate method or technique to determine the property's site value and did not provide her supporting rationale for this determination;
- i) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – For each of the properties Respondent failed to collect, verify, analyze and reconcile the cost new of improvements;
- j) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations for the Amber Leaf property;

- k) USPAP Standards 1-1(a) & 1-4(b) – Respondent did not employ recognized methods and techniques in his cost approach for each of the properties;
- l) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – For all of the properties, Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- m) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze a prior sale of the Amber Leaf property which occurred within the 3 years prior to the effective date of Respondent's appraisal report for each of the properties;
- n) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – In each of the properties Respondent failed to reconcile the quality and quantity of the data within the approaches to value used and the applicability or suitability of the approaches; and,
- o) USPAP Standards 1-1(a), 1-1(b), and 1-1(c) – For the reasons detailed above, Respondent produced appraisals for the properties that contained substantial errors of omission or commission by not employing correct methods and techniques as detailed above. This resulted in appraisals that were not credible or reliable.

7. Respondent's reports for each of the properties contained material misrepresentations and omissions of material fact was detailed above.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent made material misrepresentations or omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(12).
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended, effective 5:00 p.m. (CST) on February 21st, 2014 and ending at 5:00 p.m. (CST) on February 21st, 2017.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on February 21st, 2014, the suspension is to be fully probated for 36 months ending 5:00 p.m. (CST) on February 21st, 2017, subject to the following terms and conditions:

1. **EDUCATION.** On or before August 21st, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum 15 classroom hour course in USPAP;
 - B. A minimum 7 classroom hour course in report writing;
 - C. A minimum 7 classroom hour course in the sales comparison approach;
 - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before May 21st, 2014, Respondent shall complete 10 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. In addition, on or before August 21st, 2014, Respondent shall complete an additional 5 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before each of the due dates listed for the mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before each of the due dates listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The aggregate total of 15 hours of mentorship shall include:
 - A. 4 hours on the site analysis and valuation; and,
 - B. 3 hours on the recognized methods and techniques for developing a site value;

- C. 3 hours in how to select and analyze comparable sales;
- D. 4 hours in how to analyze, make and support adjustments to comparable sales;
- E. 1 hours in how to research a property's sales history and document and analyze any such sales history;

3. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board by certified funds an administrative penalty of four thousand dollars (\$4,000.00), of which two thousand dollars (\$2,000.00) shall be fully probated, subject to timely compliance with the following conditions:

A. INSTALLMENT PAYMENTS OF ADMINISTRATIVE PENALTY. Respondent shall pay the non-probated portion of the administrative penalty in 10, equal, monthly \$200.00 installments due on the first day of each month as follows:

- (i) \$200 due by March 1st, 2014
- (ii) \$200 due by April 1st, 2014
- (iii) \$200 due by May 1st, 2014
- (iv) \$200 due by June 1st, 2014
- (v) \$200 due by July 1st, 2014
- (vi) \$200 due by August 1st, 2014
- (vii) \$200 due by September 1st, 2014
- (viii) \$200 due by October 1st, 2014
- (ix) \$200 due by November 1st, 2014
- (x) \$200 due by December 1st, 2014

B. WRITTEN REPORTS. On or before September 1st, 2014, Respondent shall submit to the Board a 1 page report for each of the five mentorship topic areas itemized above in which:

- (i) he explains the deficiencies in each of his appraisals relative to the specific mentorship topic;
- (ii) he describes what he learned from the specific mentorship session; and,
- (iii) explains how he intends to apply what he learned during the specific mentorship session to his appraisal practice going forward in order to avoid future problems with his work product; and,

C. Respondent shall timely comply with all other terms and conditions of this agreed final order.

4. **LOGS.** On or before March 21st, 2015, Respondent shall submit a signed and notarized experience log and affidavit listing all real estate appraisal activities completed during the time period November 21st, 2014 through February 21st, 2015.
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION AND ADMINISTRATIVE PENALTY IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM AND AMOUNT COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL ALSO BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

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, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, 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.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to compliance.talcb@talcb.texas.gov, (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, OR FAILURE TO PROVIDE LOGS).

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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 ____ day of _____, 2014.


ISRAEL R. GALINDO


TED WHITMER, ATTORNEY FOR
ISRAEL R. GALINDO

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9th day of JANUARY, 2014, by ISRAEL R. GALINDO, to certify which, witness my hand and official seal.


Notary Public Signature

Jeffrey Goff

Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 30th day of January, 2014.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 21 day of Feb, 2014.

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

Approved by the Board and Signed this 2 day of Feb, 2014.

Walker Beard
Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board