

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JASON R. GARCIA  
TX-1333463-R

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DOCKETED COMPLAINT NO.  
08-163 & 09-015

**AGREED FINAL ORDER**

On this the 11 day of Dec, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Jason R. Garcia (Respondent).

In order to conclude this matter Jason R. Garcia denies the truth of the Findings of Fact and Conclusions of Law contained herein but 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 Jason R. Garcia is a Texas state certified residential real estate appraiser, holds certification number TX-1333463-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised 5009 Willow Lane, Dallas, Texas 75244 ("the Willow property") on or about December 4<sup>th</sup>, 2007.
3. Respondent appraised 601 Explorer, Lakeway, Texas 78734 ("the Explorer property") on or about May 24<sup>th</sup>. 2005.
4. Thereafter complaints relating to each of these real estate appraisal reports were filed with the Board. The complaints alleged that Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice in his completion of these reports.
5. After receipt of each complaint, 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 complaints. Respondent's responses were received.

6. Respondent violated TEX. OCC. CODE § 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 "Willow property":

- a) Respondent violated the Ethics Rule (record keeping provisions) because he failed to maintain a work file as required by the record keeping provisions;
- b) Respondent failed to identify and report the site and improvement(s) description adequately, including misrepresenting the lot size and the zoning applicable to the Willow property, misrepresenting the school district in which the property is located and omitting any discussion or analysis of the property's garage conversion into living area and the impact this had on value. Respondent also inconsistently characterizes the condition of the property as "average" and then "good" in different sections of the report;
- c) Respondent did not provide a summary of his supporting reasoning behind his highest and best use determination for the Willow property;
- d) Respondent did not correctly explain and support his exclusion of the cost approach. At one point in the report he disclaims use of the cost approach, but then proceeds to do such an analysis anyway;
- e) Respondent used inappropriate methods or techniques in his cost approach analysis, including failing to provide any support for his site value, cost new of improvements, or depreciations conclusions in either his report or work file. Respondent's site value and cost of improvements determination are not supported by market data and in the case of the cost of improvements, the cited source Respondent relied upon does not provide such a high cost figure. In addition, Respondent erroneously calculated the physical depreciation for the Willow property's swimming pool by depreciating the house at the same rate as the pool located on the property. All of these problems with the cost approach analysis resulted in an unreliable appraisal report for the Willow property;
- f) Respondent failed to analyze and reconcile sales comparison data properly, failed to select appropriate comparable sales that were available in the immediate neighborhood, and generally used improper methods and techniques;
- g) Respondent failed to analyze the agreement of sale, including the \$98,000.00 gift funds / seller concessions which was roughly 20% of the purchase price, is atypical and should have been addressed at length. Respondent also failed to analyze the prior listing history of the Willow property and reconcile that data correctly;
- h) Respondent failed to analyze and report the previous sale of the property for \$255,500. He also failed to reconcile this market data correctly since his appraised value of \$449,900 reflected an appreciation of 52%, which sharply contrasts with

the market data that indicates the Willow property area appreciated in the range of 14-18%;

- i) Respondent's report for the Willow property contained substantial errors of commission or omission with respect to the property's site and improvements description, the sales comparison approach, cost approach, and the property's previous sales and listing history, all of which resulted in a misrepresentative and unreliable appraisal report.

7. Respondent violated TEX. OCC. CODE § 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 "Explorer property":

- a) Respondent violated the Ethics Rule (record keeping provisions) because he failed to maintain a work file as required by the record keeping provisions;
- b) Respondent failed to identify and report the Explorer property's site description adequately;
- c) Respondent failed to provide a brief summary of his supporting rationale and reasoning for his determination of the property's highest and best use and failed to analyze and address that the Explorer property was an assemblage of five lots, which have the potential to be re-platted and sold separately from the Explorer property;
- d) Respondent failed to use an appropriate method or technique to determine site value and failed to provide any support his site value determination of \$300,000.00, which resulted in a misleading appraisal report;
- e) Respondent failed to collect, verify, analyze and reconcile the cost new of improvement(s) and inflated the cost approach to a figure significantly higher than published cost data supports. This resulted in a misleading appraisal report;
- f) For the reasons noted above, Respondent failed to employ correct methods and techniques in his cost approach;
- g) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and generally did not employ recognized methods and techniques. Respondent selected inappropriate properties for use as comparables which were not similar to the Explorer property and were superior in various characteristics such as location, view, site size and other features, even though more appropriate and truly comparable sales were available and should have been used. He also then failed to make adequate adjustments to the sales he did use. This resulted in a misleading appraisal report;

- h) Respondent failed to analyze and reconcile the Explorer property's listing history with his ultimate market value determination;
  - i) Even though the Explorer property is an assemblage of five residential lots, Respondent failed to analyze and report the effect this had on the Explorer property's market value;
  - j) Respondent's report for the Explorer property contained substantial errors of commission or omission as detailed above, all of which resulted in a misrepresentative and unreliable appraisal report.
8. Respondent omitted material facts 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 Ethics Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(v)(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); 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).
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 for twenty-four months with this revocation being fully probated under the following conditions:
  - i. During the entire probated, twenty-four 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 not sponsor any trainees during the entire period of probation; and,
  - 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, 15 classroom-hour course in the Sales Comparison Approach;
- e. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing;
- f. Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use;
- g. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
- h. Pay to the Board a \$2,500.00 administrative penalty;
  - i. Payment of the administrative penalty shall be made in eighteen equal, \$138.89 installments, with the first payment being due on or before January 1<sup>st</sup>, 2010 and the remaining payments being due on the first of each month thereafter until paid in full; and,
- i. 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.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **EIGHTEEN 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 certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including but not limited to revocation of the above-noted probation.

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.

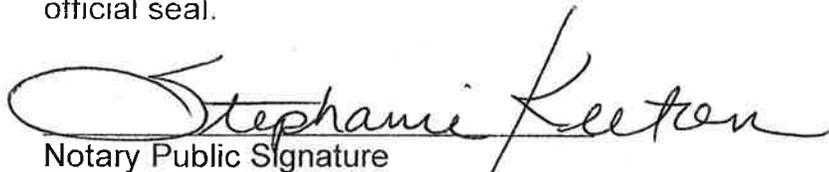
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 30 day of November, 2009.

  
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JASON R. GARCIA

  
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CHARLES BEALL, ATTORNEY FOR  
RESPONDENT

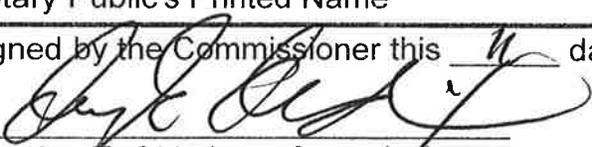
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30 day of November, 2009, by JASON R. GARCIA, to certify which, witness my hand and official seal.

  
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Notary Public Signature

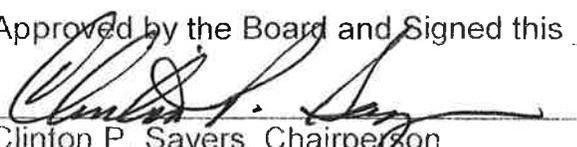


Stephanie Keeton  
\_\_\_\_\_  
Notary Public's Printed Name

Signed by the Commissioner this 11 day of Dec, 2009.

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

Approved by the Board and Signed this 11 day of Dec, 2009.

  
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Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board

A handwritten signature in black ink, appearing to read "Clinton P. Sayers", written over a horizontal line.

Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board