

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JASON R. GARCIA  
TX-1333463-R

§  
§  
§  
§  
§  
§  
§  
§

DOCKETED COMPLAINT NO.  
05-122

**AGREED FINAL ORDER**

On this the 10 day of DECEMBER, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Jason R. Garcia, (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 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 cases.
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 March 17<sup>th</sup>, 2003 Respondent appraised real property located at 4202 Ridgepole Lane, Spicewood, Texas 78669 ("the property").
4. On or about July 20<sup>th</sup>, 2005, the Complainant, Peter Mark Loftus, filed a complaint with the Board alleging that the appraisal report contained various USPAP deficiencies and omissions of material information.
5. On or about July 21<sup>st</sup>, 2005 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 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 the complaint was received.
6. The Enforcement Division has concluded that the Respondent violated 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. USPAP Standards 1-2(d) & 2-2(b)(vi) – Respondent failed to identify the effective date of the appraisal report correctly;

- b. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description adequately;
- c. USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent has failed to provide a brief summary of his rationale for his determination of the property's highest and best use;
- d. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop an opinion of the 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;
- f. USPAP Standards 1-1(a) & 1-4(b) – Respondent has failed to employ recognized methods and techniques correctly in his cost approach analysis;
- g. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze, and reconcile comparable sales data adequately;
- h. USPAP Standards 1-1(a) & 1-4(a) – Respondent did not employ recognized methods and techniques in his sales comparison approach correctly;
- i. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze all agreements of sale, options or listings current as of the effective date of his appraisal report;
- j. USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent failed to analyze all sales of the property within 3 years prior to the effective date of his appraisal report;
- k. USPAP Standards 1-1(b) – For the reasons detailed above, Respondent failed to comply with USPAP by committing substantial errors of omission or commission that significantly affected his appraisal report;
- l. USPAP Standards 1-1(c) – For the reasons discussed above, Respondent failed to comply with USPAP by rendering appraisal services in a careless or negligent manner;
- m. USPAP Standard 2-1(a) – Respondent's appraisal report does not set for the appraisal clearly and accurately in a manner that will not be misleading;

## 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 USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 1-2(d) & 2-2(b)(vi); 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 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(b); 1-1(c); and, 2-1(a).

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

- a. Is hereby publicly reprimanded for producing an appraisal report that failed to comply with the provisions of USPAP in effect at the time he conducted this appraisal assignment;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- c. Comply with all 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 **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 comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent.

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.

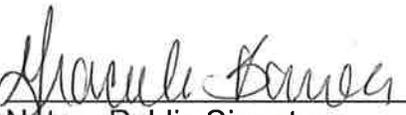
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published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

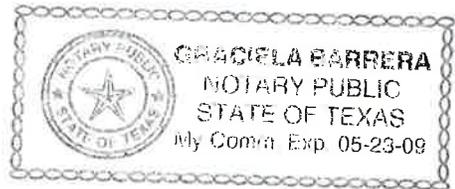
Signed this 9 day of FEBRUARY, 2008

  
\_\_\_\_\_  
JASON R. GARCIA

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9 day of February, 2007, by JASON R. GARCIA, to certify which, witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public Signature

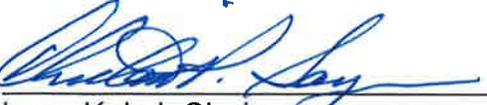
Graciela barrera  
\_\_\_\_\_  
Notary Public's Printed Name



Signed by the Commissioner this 11<sup>th</sup> day of February, 2008.

  
\_\_\_\_\_  
Timothy K. Irvine, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 29<sup>th</sup> day of FEBRUARY, 2008.

  
\_\_\_\_\_  
Larry Kokel, Chairperson  
Texas Appraiser Licensing and Certification Board

Clinton P. Sayers