

requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about September 20 and 27, 2013.

5. As a result of the Board's investigation, the Board finds that 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 USPAP in effect at the time of the appraisal of the Texas City Property and Galveston County Property:

- a. USPAP Ethics Rule (conduct, record keeping¹ and management) – Respondent violated the conduct and management provisions of the Ethics Rule;
- b. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;
- c. Scope of Work Rule – Respondent did not perform a scope of work sufficient for credible assignment results and the scope of work performed was not the scope of work disclosed in the appraisal reports;
- d. USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent failed to identify the type and definition of value cited to its source incorrectly in the Galveston County Property appraisal;
- e. USPAP Standard 2-2(b)(vi) – Respondent failed to identify the date of the report correctly for the Galveston County Property appraisal;
- f. USPAP Standards 1-2(f), 1-2(g), 2-1(c) & 2-02(b)(x) – Respondent failed to disclose extraordinary assumptions and hypothetical conditions in his appraisal reports;
- g. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and describe the sites and the improvements adequately;
- h. USPAP Standards 1-4(f) & 2-2(b)(viii) – Respondent failed to consider and report anticipated public and private improvements located on or off the sites;
- i. USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to identify, consider and describe easements existing on the properties and address their impact on highest and best use or market value, if any;
- j. USPAP Standard 1-2(e)(v) & 2-2(b)(viii) – Respondent has failed to identify, consider and address the impact, if any, of the fact that the Galveston County

¹ This deficiency only applies to the Galveston County Property appraisal completed in February, 2011. At that time, USPAP's record keeping requirements were contained within the USPAP Ethics Rule. By the time of the City Property appraisal in 2012, a separate Record Keeping Rule existed.

Property was owned by more than one person or entity and instead incorrectly appraised the property as if it was owned by one person or entity;

- k. 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;
- l. USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to a credible highest and best use with a supporting and documented rationale;
- m. USPAP Standards 1-4(a) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach;
- n. USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to analyze the agreements of sale for both properties as of the effective date of his appraisal reports;
- o. 1-6(a), 1-6(b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used;
- p. USPAP Standards 2-2(b)(xi) & 2-3 – In both appraisal reports Respondent failed to provide a signed certification which contains the content required by Standard 2-3; and,
- q. 1-1(a), 1-1(b), 1-1(c) and 2-1(a) -- For the reasons detailed above, Respondent produced appraisal reports for both properties that contained several substantial errors of omission or commission which significantly impacted the appraisals and resulted in misleading appraisal reports.

6. Respondent made material misrepresentations and material omissions of material fact with respect to both appraisals as detailed above.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

- 1. The Board has jurisdiction over this matter pursuant to the Act.
- 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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.

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 state certification (TX-1325255-G) is hereby suspended for eighteen (18) months, February 20, 2015 to August 19, 2016, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 19, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final 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 15 hour classroom course in USPAP.

2. **MENTORSHIP.** On or before May 19, 2015, Respondent shall complete twelve (12) 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

a. Three (3) hours of mentorship concerning the sales comparison approach;

b. Three (3) hours of mentorship concerning highest and best use;

c. Three (3) hours of mentorship concerning market analysis; and,

d. Three (3) hours concerning commercial report writing.

3. **APPRAISAL EXPERIENCE LOG.** On or before March 4, 2016, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the three (3) month period from November 20, 2015 to February 19, 2016. The log shall detail all real estate appraisal activities Respondent has conducted during the aforementioned three (3) month period. The log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete, and accurate. Within twenty (20) days of receiving Respondent's appraisal experience log, Board staff will notify Respondent and request two (2) appraisal reports from the appraisal experience log. Respondent shall provide copies of the two (2) selected appraisal reports, and work files, within twenty (20) days of receiving the Board's request. Within twenty (20) days of receipt of the two (2) requested appraisal reports, Board staff will investigate the requested appraisal reports to ensure USPAP compliance. Respondent will be promptly notified of the results of the investigation of the selected appraisal reports with a finding and resolution of:

a. **CONFORM TO USPAP.** If the selected appraisal reports conform to USPAP, Respondent will have completed the experience log term of this Agreed Final Order.

b. **FAILURE TO CONFORM TO USPAP.** If the selected appraisals fail to conform to USPAP, Respondent will be notified of the deficiencies in the appraisal report(s) conformance to USPAP and be required to complete the following remedial measures by August 19, 2016:

i. **MENTORSHIP.** On or before August 19, 2016, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board to discuss and correct all noted deficiencies in the selected appraisal report(s). Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

ii. **CORRECTED APPRAISAL(S).** On or before August 19, 2016, Respondent shall correct all issues noted in the selected appraisal report(s) and resubmit them to the Board along with the certification of completion of mentorship. If the corrected appraisal(s) generally conform to USPAP, Respondent will have completed the experience log term of this Agreed Final Order. If the corrected

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appraisal(s) fail to generally conform to USPAP, Board staff may pursue a staff-initiated complaint.

c. **SERIOUS DEFICIENCIES AND INTENTIONAL MISCONDUCT.** In the event Board staff discovers any serious deficiencies, as defined in Board Rule 153.24, or intentional misconduct, during the course of investigating the selected appraisal reports as part of this experience log requirement, Board staff may pursue a staff-initiated complaint.

4. **ADMINISTRATIVE PENALTY.** On or before March 12, 2015, Respondent shall pay to the Board an administrative penalty of two thousand dollars (\$2,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
5. **TRAINEES.** Respondent shall not sponsor any trainees for eighteen (18) months, from February 20, 2015 to August 19, 2016.
6. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
7. Respondent shall 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 imposed in this Agreed Final Order shall be effective for the full term 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 be immediately assessed an additional \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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 website.

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

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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).

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

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.

EXECUTION

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.

RESPONDENT

Signed this 22 day of January, 2016

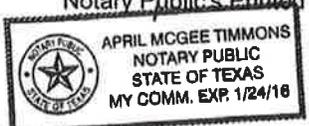
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[Handwritten Signature]

GEORGE F. KAHLE, III

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 2 day of January, 2014, by GEORGE F. KAHLE, III, to certify which witness my hand and official seal.

[Handwritten Signature]
Notary Public's Signature
April McGee Timmons
Notary Public's Printed Name



RESPONDENT'S ATTORNEY

2nd

Signed and approved as to form by Respondent's Attorney this January day of 2014

[Handwritten Signature]

TED WHITMER, Respondent's Attorney

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 5TH day of JANUARY, 2014.

[Handwritten Signature]
Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 20 day of Feb, 2015.

[Handwritten Signature]
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

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Approved by the Board and Signed this 20 day of February, 2015.



Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board