

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

TED NORMAN LEAR  
TX-1321121-G

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DOCKETED COMPLAINT NO.  
12-024 & 12-174

**AGREED FINAL ORDER**

On the 15<sup>th</sup> day of February, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Ted Norman Lear (the "Respondent").

In order to conclude this matter, 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 is a Texas state certified general real estate appraiser who holds certification number, TX-1321121-G, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 25315 Pedernales Point Drive, Spicewood, Texas ("the property") (on or about October 15, 2008).
3. Thereafter complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
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 the complaints. Respondent was also requested to provide certain documentation to the Board.
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)(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 reports for the property:
  - a) USPAP Ethics Rule (record keeping) – Respondent failed to maintain a work file containing all data, information, and documentation necessary to

support the appraiser's opinions and conclusions;

- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site and improvement(s) description adequately;
- c) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- d) 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 & demand, physical adaptability of the real estate market and market area trends;
- e) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to provide support and a brief summary of his rationale for the highest and best use;
- f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); and 1-1(a) & 1-4(b); 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and accrued depreciations and did not employ recognized methods and techniques in his cost approach, including his determination of site value, which lacked supporting documentation and a summary of his analysis;
- g) USPAP Standards 1-4(a) & 2-2(b)(viii) and 1-1(a) & 1-4(a) – 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;
- h) USPAP Standards 1-6(a) & (b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – Respondent produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques and not analyzing and reconciling significant and material information she had a duty to analyze and reconcile. This resulted in an appraisal report that was not credible or reliable.

Respondent's reports for the properties contain substantial errors of commission or omission as detailed above which resulted in misleading appraisal reports for the property.

## **CONCLUSIONS OF LAW**

1. The 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 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).
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 shall:

1. **MENTORSHIP.** Within 6 months of the effective date of this order, Respondent shall complete 8 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 Board approved certification form signed by the approved certified USPAP instructor on or before the due date 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;
2. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
3. 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.

IT IS FURTHER ORDERED that Respondent pay an administrative penalty in the amount of \$500 within twenty (20) days of the effective date of this order.

***Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION*** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent is in full compliance with the terms of this Order and has provided adequate documentation of that compliance to the Board.

**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 shall be notified of any such suspension by first class mail or e-mail to the last known address as provided to the Board.

**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.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

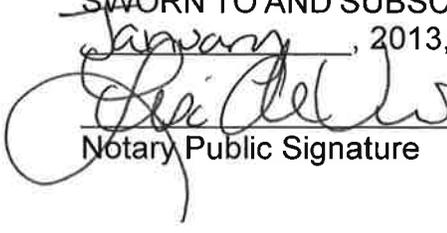
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

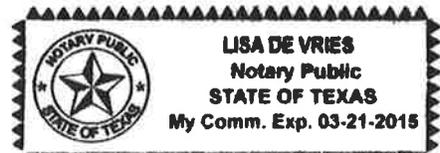
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 25 day of January, 2013.

  
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TED NORMAN LEAR

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25 day of January, 2013, by , to certify which, witness my hand and official seal.

  
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Notary Public Signature



Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 15<sup>th</sup> day of FEBRUARY, 2013.

Scott Beaudin

TALCB Staff Attorney

Signed by the Commissioner this 15<sup>th</sup> day of February, 2013.

Douglas Oldmixon

Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15<sup>th</sup> day of February, 2013.

Walker Beard

~~Luis De La Garza~~, Chairperson Walker Beard  
Texas Appraiser Licensing and Certification Board