

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

MICHAEL LIDNEY MOLNARI  
TX-1336760-R

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DOCKETED COMPLAINT NO.  
13-314

**AGREED FINAL ORDER**

On the <sup>21</sup>~~20th~~ day of <sup>February</sup>~~December~~, 2013<sup>4</sup>, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Michael Lidney Molnari (the "Respondent").

In order to conclude this matter, Michael Lidney Molnari 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 (the "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 is a Texas state certified residential real estate appraiser who holds certification number, TX-1336760-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 2206 Colby Drive, Baytown, Texas 77520 ("the property") on or about October 3<sup>rd</sup>, 2012.
3. Thereafter, a complaint was filed with the Board by Jessica Nayden, an employee of LSI, claiming the appraisal report contained various deficiencies under the Uniform Standards of Professional Appraisal Practice. The Board reviewed the complaint to ensure compliance with 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, 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 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. 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 his appraisal report for the property:

- a) USPAP Record Keeping Rule – Respondent’s work file does not contain the documentation necessary to support his analyses, opinions and conclusions;
  - b) USPAP Competency Rule – Respondent failed to completely perform the assignment;
  - c) USPAP Standards 1-2(e)(i) and 1-2(e)(iv) and 2-2(b)(iii) – Respondent failed to identify and report the improvement(s) adequately and did not analyze and report on the property’s zoning ordinance;
  - d) USPAP Standards 1-3(a) and 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 adequately and did not provide supporting documentation for his rationale;
  - e) USPAP Standards 1-4(b)(i) and 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of site value and provide supporting documentation and supporting reasoning for his site value determination;
  - f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b); and 1-1(a) & 1-4(b) – 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;
  - g) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data 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; and,
  - i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques.
6. Respondent made material misrepresentations and material omissions of material fact with respect to his appraisal of the property as detailed above.
7. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

## 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 violated 22 TEX. ADMIN. CODE § 153.20(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:

1. **EDUCATION.** On or before August 21, 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. 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 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. Attend and complete a minimum (7) classroom course in the use of adjustments in the sales comparison approach;
    - i. No examination shall be required for this course;
  - b. Attend and complete a minimum (7) classroom course in the cost approach and site valuation;
    - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before May 21, 2014. Respondent shall complete eight (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 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 Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 8 hours of mentorship shall include:

- a. 3 hours on analyzing and supporting adjustments made in the sales comparison approach;
- b. 3 hours on recognized methods and techniques for determining site value; and,
- c. 2 hours on how zoning impacts highest and best use.

4. **ADMINISTRATIVE PENALTY.** On or before March 13<sup>th</sup>, 2014, Respondent shall pay to the Board by certified funds an administrative penalty of five hundred dollars (\$500.00), which shall be fully probated, subject to timely compliance with the following conditions:

A. **WRITTEN REPORTS.** On or before June 21<sup>st</sup>, 2014, Respondent shall submit to the Board a 1 page report for each of the three mentorship topic areas itemized above in which:

- (i) he explains the deficiencies in his appraisal of the property 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,

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

5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. 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**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND RESPONDENT SHALL**

**IMMEDIATELY PAY THE \$500.00 ADMINISTRATIVE PENALTY NOTED ABOVE. IN ADDITION, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY 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, 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](mailto: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.

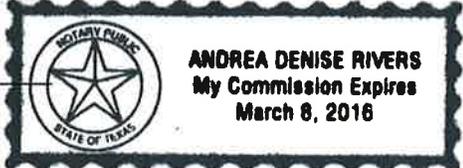
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 20<sup>th</sup> day of December, 2013.

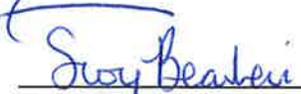
  
MICHAEL LIDNEY MOLNARI

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 20<sup>th</sup> day of December, 2013, by MICHAEL LIDNEY MOLNARI, to certify which, witness my hand and official seal.

  
Notary Public Signature  
Andrea Rivers  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 3<sup>rd</sup> day of JANUARY, 2014.

  
Troy Beaulieu, TALCB Staff Attorney

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

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21 day of Feb, 2014.

  
Walker Beard, Chairperson  
Texas Appraiser Licensing and Certification Board