TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	**DOCKETED COMPLAINT NO. 14-222**
THOMAS R. ROHDE TX-1323013-G	§	

AGREED FINAL ORDER

On the 14th day of August, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Thomas R. Rohde (the "Respondent").

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds Certification number TX-1323013-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 175 Tahitian Drive, Bastrop, Texas 78602 (the "Tahitian Drive Property") on or about December 12, 2005; Respondent appraised residential real property located at 3985 River Place Blvd., Austin, Texas 78730 (the "River Place Property") on or about September 4, 2009; and Respondent appraised residential real property located at 137 Powder Horn Road, Bastrop, Texas 78602 (the "Powder Horn Property"), on or about November 18, 2013. All three properties referred to collectively (the "Properties").

3. Thereafter, complaint number 14-222 was staff-initiated with the Board on or about May 27, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CH. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in these complaint, on or about May 27, 2014. Respondent was afforded an opportunity to respond to the accusations in both complaints and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about June 25, 2014.

5. As a result of the Board's investigation into complaint 14-222, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Tahitian Drive Property:

a. USPAP Ethics Rule (Record Keeping Provision) – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;

b. USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and describe the improvement(s) adequately;

c. USPAP Standards 1-1(a), 1-4(b)(i)-(iii), 1-4(b)(ii) and 2-2(b)(viii) – Respondent failed to employ recognized methods and techniques in developing his site value determination and cost new of improvements for the cost approach; and failed to provide supporting rationale and analysis for these conclusions in the cost approach;

d. USPAP Standards 1-4(a), 1-1(a), and 2-2(b)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach. Objective market data, which should have been reported and analyzed, was overlooked by Respondent or incorrectly analyzed and disclosed; and

e. USPAP Standards 1-1(a)-(c) and 2-1(a) – As detailed above, Respondent committed substantial errors of omission or commission which had a significant effect on the appraisal, and Respondent failed to correctly report the property's characteristics, producing an appraisal in careless or negligent manner that was misleading.

6. Respondent made material misrepresentations and omitted material facts with respect to the appraisal of the Tahitian Drive Property as detailed above.

7. As a result of the Board's further investigation into complaint 14-222, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the River Place Property:

a. USPAP Ethics Rule (Record Keeping Provision) – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;

b. USPAP Competency Rule – Respondent failed to demonstrate the geographic competency to complete this assignment, or utilize a primary data source for the property's market, which resulted in misleading information;

c. USPAP Standards 1-1(a), 1-2(e)(i), and 2-2(b)(iii) – Respondent failed to identify and report the site description and reported improvements adequately, and did not employ

reorganized methods, including incorrectly aggregating the square footage of a pool house with the main portion of the property's living area;

d. USPAP Standards 1-4(b)(i)-(iii), 2-2(b)(viii), 1-1(a) and 1-4(a) – Respondent failed to employ recognized methods and techniques in developing his site value determination and cost new of improvements for the cost approach, and failed to analyze or reconcile accrued depreciations properly. He also failed to provide supporting analysis in his cost approach;

e. USPAP Standards 1-4(a), 1-1(a), and 2-2(b)(viii) – Respondent failed to collect, verify, analyze or reconcile comparable sales data adequately, and did not employ recognized methods and techniques in the sales comparison approach. Objective market data, which should have been reported and analyzed, was overlooked by Respondent or incorrectly analyzed and disclosed; and,

f. USPAP Standards 1-1(a)-(c) and 2-1(a) – As detailed above, Respondent committed substantial errors of omission or commission which had a significant effect on the appraisal, and Respondent failed to report correctly the property's characteristics, producing an appraisal in careless or negligent manner that was misleading.

8. Respondent made material misrepresentations and omitted material facts with respect to the appraisal of the River Place Property as detailed above.

9. As a result of the Board's further investigation into complaint 14-222, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Powder Horn Property:

a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;

b. USPAP Standards 1-1(a), 1-4(b)(i)-(ii), and 2-2(b)(viii) – Respondent failed to develop a site value determination by an appropriate appraisal method or technique or to analyze and report the cost new of improvements correctly. Respondent failed to provide supporting analysis for his conclusions which were inconsistent with cost publication data and market data. In general, he failed to employ recognized methods and techniques in his cost approach;

c. USPAP Standards 1-1(a), 1-4(a), and 2-2(b)(viii)- Respondent failed to employ recognized methods and techniques, failed to disclose or utilize available sales within the property's subdivision and utilized sales from outside the subdivision that were superior in quality without making adjustments;

d. USPAP Standards 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze or report all sales of the property within three years prior to the appraisal as are available to estimate cost new of improvements or to determine site value;

e. USPAP Standards 1-1(a)-(c) and 2-1(a) – As detailed above, Respondent committed

substantial errors of omission or commission which had a significant effect on the appraisal, and Respondent failed to correctly report the property's characteristics, producing an appraisal in careless or negligent manner that was misleading.

10. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Powder Horn Property as detailed above.

11. 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

12. The Board has jurisdiction over this matter pursuant to the Act.

13. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

14. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.

15. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

ORDER

16. Based on the above findings of fact and conclusions of law, the Board **ORDERS:**

1. **EDUCATION**. On or before February 14, 2016, 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 minimum, 15 hour classroom course in USPAP.

2. **MENTORSHIP**. On or before February 14, 2016, 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 Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

a. Two (2) hours of mentorship concerning cost approach;

b. Two (2) hours of mentorship concerning sales approach;

c. Two (2) hours of mentorship concerning geographic competency and scope of work;

d. One (1) hour of mentorship concerning work file requirements; and

e. One (1) hour of mentorship concerning report writing.

3. 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 TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, 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 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 or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. 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 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 and Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, Texas 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 30 day of July, 2015.

Thomas R. Rohde

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 30 day of July, 2015, by Thomas R. Rohde, witnessed by my hand and official seal.

DEBORA A. CANIK
Notary Public
STATE OF TEXAS
My Comm. Exp. October 8, 2016

Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 3 day of August, 2015.

~~Troy Beaulieu, Attorney~~ Kyle Wolfe, Attorney
Director, Standards and Enforcement Services Division
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 3 day of August, 2015.

for

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this 14 day of August, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board