

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
06-163

NEAL FRANKLIN SCHIFFBAUER  
TX-1320961-R

**AGREED FINAL ORDER**

On this the 15 day of October, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Neal Franklin Schiffbauer (Respondent).

In order to conclude this matter, Neal Franklin Schiffbauer 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 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 Neal Franklin Schiffbauer is a Texas state certified residential real estate appraiser, holds certification number TX-1320961-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about April 11<sup>th</sup>, 2006, Respondent appraised real properties located at 112 East 3<sup>rd</sup> Street, Yorktown, Texas 78164 ("the Yorktown property") and 328 Catfish, Palacios, Texas 78164 ("the Catfish property").
3. On or about June 20<sup>th</sup>, 2006, the Complainant, John Eickhoff, filed a complaint for each of the appraisals with the Board. Both complaints alleged that each appraisal report was performed incorrectly, had errors and was not in compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. On or about June 28<sup>th</sup>, 2006 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, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent's response to both complaints was received.
5. 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 properties:

- a) Respondent failed to comply with the record keeping provisions of USPAP's Ethics Rule;
- b) Respondent failed to indicate the source of his market value definition;
- c) Respondent failed to indicate the use of the existing real estate as of the date of value;
- d) Respondent failed to provide a brief summary of his rationale for his determination of the properties' highest and best use;
- e) Respondent failed to reference extraordinary assumptions and hypothetical conditions in the reports;
- f) Respondent failed to identify, analyze and report comparable sales data adequately by not selecting appropriate comparable sales within proximity to the properties and/or making appropriate adjustments for differences in land value;
- g) Respondent failed to comply with USPAP's Supplemental Standards Rule by failing to adhere to HUD requirements related to disclosure of certain marketing and listing history information about the subject and sales comparables which were used in the reports; and,
- h) Respondent was careless or negligent which resulted in appraisal reports for the properties that were not credible for the reasons detailed above.

#### 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 provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): Record Keeping provisions of USPAP's Ethics Rule; USPAP Standards Rules: 2-2(b)(v); 2-2(b)(ix); 2-2(b)(x); 1-4(a) & 2-2(b)(ix); 1-1(a), and 1-1(c).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(8) by omitting material facts.

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

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 7 classroom-hour course in Manufactured Housing;

- i. No examination shall be required for this course;
- c. Pay to the Board an administrative penalty of \$ 1,000.00, the payment of which shall be fully probated under the condition that Respondent timely comply with all the terms of this Order; and,
- d. 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. Unless otherwise noted above, 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 timely 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 as provided for by TEX. OCC. CODE § 1103.518.

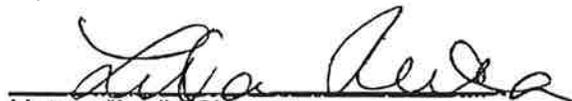
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

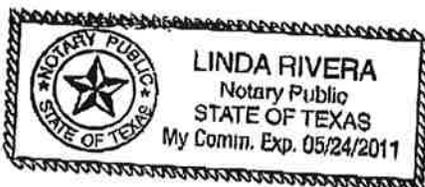
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 15 day of October, 2008.

  
NEAL FRANKLIN SCHIFFBAUER

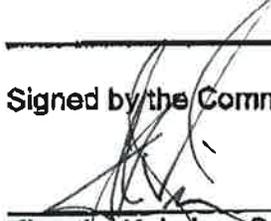
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15 day of October, 2008, by NEAL FRANKLIN SCHIFFBAUER, to certify which, witness my hand and official seal.

  
Notary Public Signature



Linda Rivera  
Notary Public's Printed Name

Signed by the Commissioner this 17 day of October, 2008.

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

Approved by the Board and Signed this 17 day of October, 2008.

  
Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board