TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 13-145 & 15-229
	§	
	§	
MARK OLIVER SIKES	§	
TX-1326712-G	§	

AGREED FINAL ORDER

On the 19th day of FEBRUARY, 2018, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Mark Oliver Sikes (Respondent).

In order to conclude this matter, Respondent denies alleged deficiencies in Respondent's appraisal of the subject properties as set forth within the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the following actions set out in this 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-1326712-G and was certified by the Board during all times material to the above-noted complaints.

2. Respondent appraised 42.741 acres of vacant land located on the south side of State Highway 225, west of East Boulevard, Deer Park, Texas (Property), on or about August 3, 2012. Respondent also appraised 100 Northwest Mall, Houston, Texas 77092 (the Macy's) and 9500 Hempstead Road, Houston, Texas 77092 (the Northwest Mall) on or about February 19, 2013.

3. Thereafter, complaints, numbered 13-145 and 15-229, were filed with the Board by the Complainant, on or about February 14, 2013 (13-145) and May 5, 2015 (15-229). The Complainant was an expert witness on behalf of a condemning authority in condemnation litigation. Respondent was on the opposite side of the condemnation litigation – being hired by the landowner – than Complainant. As of the date of the Agreed Final Order, Complainant has filed multiple complaints with the TALCB against appraisers hired by the Property Owner in the same condemnation litigation. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about February 25, 2013 and May 15, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about April 4, 2013 and July 6, 2015.

5. As a result of the Board's investigation, the Board alleges deficiencies in Respondent's appraisals of the Property and the Mall under USPAP which Respondent denies and disputes.

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

7. The findings of fact and conclusions of law contained in this Agreed Final Order are the sole, dispositive findings and conclusions reached by the Board in this matter.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over these matters pursuant to the Act.

2. The Board alleged deficiencies under TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6) which Respondent denies and disputes.

3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458, and have chosen to do so to avoid the time, expense, and uncertainty of litigation.

4. Consent to the Agreed Final Order by Respondent is not an admission of any alleged deficiencies under USPAP, TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

ORDER

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

1. **EDUCATION.** On or before November 20, 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 fifteen (15) classroom hour course in USPAP;

b. A minimum fifteen (15) classroom hour course in commercial highest and best use and market analysis; and,

c. A minimum fifteen (15) classroom hour course in commercial sales comparison approach.

2. **TRAINEES**. Respondent shall not supervise any new trainees for six (6) months, from February 19, 2016 to August 19, 2016.

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

4. 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 deny alleged deficiencies in my appraisal of the subject properties as set forth within the Findings of Fact and Conclusions of Law contained herein. 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 25 day of January, 2016

Mark Oliver Sikes

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 25 day of January, 2016, by Mark Oliver Sikes, to certify which witness my hand and official seal.

KRISTA SMALLWOOD
Notary Public, State of Texas
My Commission Expires
October 29, 2019

Notary Public's Signature

RESPONDENT'S ATTORNEY

Signed this 25th day of January, 2016.

Don C. Griffin, Respondent's Attorney

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 25th day of January, 2016.

Troy Beaulieu, Director
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 25 day of Jan, 2016.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this 19 day of Feb, 2016.

~~Jamie Wickliffe, Chairperson~~ Jim Jeffries, Vice Chairperson
Texas Appraiser Licensing and Certification Board