

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BARRY DOUGLAS THOMAS  
TX-1333439-R

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DOCKETED COMPLAINT NO. 06-045

**AGREED FINAL ORDER**

On this the 27<sup>th</sup> day of JUNE, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Clifford P. Dodson Jr. (Respondent).

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, Barry Douglas Thomas was notified of the allegations against him. In order to conclude this matter, Barry Douglas Thomas neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the probated suspension of his Texas state certified residential real estate appraiser license.

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 Barry Douglas Thomas is a Texas state certified residential real estate appraiser, holds certification number TX-1333439-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised real property located at 4408 Joy Lane, Crandall, Texas 75114, 111 Elm Circle, Blue Ridge, Texas 75424, 618 Edgedale Drive, Dallas, Texas 75232, 1876 FM 814, Trenton, Texas 75490, and 4367 Joy Lane, Crandall, Texas 75114 ("the properties").
3. Subsequently Jack McComb filed a staff-initiated complaint with the Board. The complaint was based upon a referral from Pat Wilmer, Acting Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD") which claimed that Respondent's reports did not comply with USPAP.
4. 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 complaint. Respondent's response to the complaint was received.

5. Respondent violated TEX. OCC. CODE § 1103.405, and 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 report for the properties.

- a) Respondent communicated misleading appraisal reports for the properties;
- b) Respondent failed to maintain records evidencing collection, verification and analysis of sales and cost data for use in his appraisal reports;
- c) Respondent failed to identify and report the improvement(s) description adequately in his reports;
- d) Respondent did not provide a summary of his reasoning behind his highest and best use determinations for the properties being appraised;
- e) Respondent failed to analyze and reconcile sales comparison data properly, failed to analyze sales concessions, did not make appropriate adjustments, and generally used improper methods and techniques;
- f) Respondent did not properly analyze and report all sales of the properties;
- g) All of Respondent's reports contained substantial errors of omission or commission that significantly impacted the appraisal assignments as detailed above, including failing to disclose and analyze market area trends such as the vast number of foreclosures of similar properties occurring in the area;

## 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 Ethics Rule and USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-1(b); and, 2-1(a).

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

- a. Have his certification suspended for 12 months with this suspension being fully probated under the following conditions:
  - i. During the entire probated, twelve month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has

conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request; and,

- ii. Fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Pay an administrative penalty of \$1,500.00, payment of which shall be fully probated under the condition that Respondent fully and timely comply with the provisions of this Agreed Final Order;
- c. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- d. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach or in Residential Case Studies;
- e. Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use; and,
- f. 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. 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.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to 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.

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.

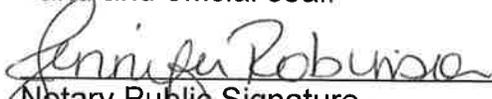
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 11 day of JUNE, 2008.

  
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BARRY DOUGLAS THOMAS

  
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SUSAN HENRICKS, ATTORNEY FOR RESPONDENT

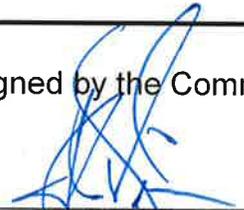
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 11 day of June, 2008, by BARRY DOUGLAS THOMAS, to certify which, witness my hand and official seal.

  
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Notary Public Signature



Jennifer Robinson  
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Notary Public's Printed Name

Signed by the Commissioner this 27th day of JUNE, 2008.

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

Approved by the Board and Signed this 27th day of JUNE, 2008.

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