

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

WILBURN FLACK TROTTER
TX-1322606-G

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DOCKETED COMPLAINT NO. 09-182

AGREED FINAL ORDER

On this the _____ day of _____, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Wilburn Flack Trotter (Respondent).

In order to conclude this matter Wilburn Flack Trotter 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, Wilburn Flack Trotter, is a state certified general real estate appraiser, holds certification number TX-1322606-G, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about May 7th, 2009, the Respondent reviewed two separate appraisals of real property located at 221 Blue Heron Drive, Montgomery, Texas 77316 ("the Blue Heron property"), and on or about May 7th, 2009, the Respondent reviewed an appraisal of real property located at 32342 Spinnaker Run, Magnolia, Texas 77354 ("the Spinnaker property").
4. Thereafter a staff-initiated complaint was filed with the Board based on allegations that the Respondent had produced review appraisal reports that contained various USPAP violations.
5. On or about May 18th, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's responses to the complaint was received.

6. 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 his reviews for the two Blue Heron property appraisals and the Spinnaker property appraisals:

- a) Respondent failed to identify the problem to be solved and, determine and perform the Scope of Work necessary to develop credible assignment results;
- b) Respondent failed to develop a credible opinion as to the completeness of the material under review within the scope of work applicable in the assignment ;
- c) Respondent did not develop a credible opinion as to the apparent adequacy and relevance of the data and the propriety of any adjustments to the data;
- d) Respondent failed to develop a credible opinion as to the appropriateness of the appraisal methods and techniques used and to develop reasons for any disagreement; he also failed to develop a credible opinion as to whether the analysis, opinions, and conclusions in the work under review were appropriate and reasonable and develop the reasons for any disagreement;

7. Respondent omitted material facts in the three reports as 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 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Scope of Work Rule; USPAP Standards Rules: 3-2(c); 3-1(d) & 3-2(d); 3-1(e) & 3-2(d); 3-1(f) & 3-2(d); 3-1(g) & 3-2(d); and, 3-2(e).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and 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 Attacking and Defending;
 - i. No examination shall be required for this course
- b. Attend and complete a minimum, 7 classroom-hour course in Review Appraisal;

- i. No examination shall be required for this course; and,
- c. Comply with all future 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. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the required terms of this Agreed Final Order.

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 shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent satisfies that portion of the Agreed Final Order which she has defaulted on and provides adequate documentation of same to the Board.

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 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 3RD day of October, 2011.


WILBURN FLACK TROTTER

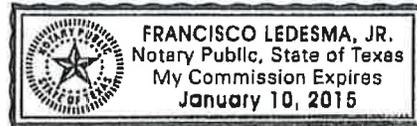
T. Whitmer

TED WHITMER, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of
October, 2011, by WILBURN FLACK TROTTER, to certify which, witness my
hand and official seal.

F. Ledesma, Jr.

Notary Public Signature



Francisco Ledesma, Jr.

Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 11th day of
OCTOBER, 2011.

Troy Beaulieu

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 12th day of October, 2011.

Douglas E. Oldmixon

Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12th day of October, 2011.

Luis De La Garza

Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board