

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JAMES M. WILLIS  
TX-1322906-G

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DOCKETED COMPLAINT NO.  
13-094 & 13-168

**AGREED FINAL ORDER**

On the 10 day of Aug, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of James M. Willis (the "Respondent").

In order to conclude this matter, James M. Willis 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 "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 James M. Willis is a Texas state certified residential real estate appraiser who holds certification number TX-1322906-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 350 East El Dorado Drive, Scroggins, Texas 75480 (the "Scroggins property") on or about November 26, 2012; and 655 Country Road 4592, Winnsboro, Texas 75494 (the "Winnsboro property") on or about February 5, 2013.
3. Thereafter complaints were filed with the Board by Cory Murphy of SunTrust Mortgage and Patty Cooper. The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter 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 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board.
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 report for the Scroggins 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 Competency Rule – Respondent failed to comply with the Competency Rule because he did not perform the assignment in a competent manner and did not employ recognized methods and techniques;
- c) USPAP Scope of Work Rule; USPAP Standards 1-2(h) & 2-2(b)(vii) – Respondent failed to expand scope of work to reflect the necessary steps to produce a credible appraisal and did not communicate the scope of work he performed;
- d) USPAP Standards 1-2(a) & 2-2(b)(i) – Respondent failed to identify the client and other intended users of the appraisal correctly;
- e) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) and 2-2(x) – Respondent failed to clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the analysis, opinions and conclusions;
- f) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description and did not identify and report improvement(s) description adequately;
- g) USPAP Standards 1-2(e)(iii), 1-4(g), & 2-2(b)(viii) – Respondent failed to identify and consider the effect on value of any personal property, trade fixtures or intangible items that are not real property but are included in the appraisal;
- h) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to consider and report deed restrictions;
- i) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to analyze the effect on use and value of existing land use regulations and economic supply and demand;
- j) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop or communicate an opinion of highest and best use;
- k) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
- l) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- m) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile accrued depreciations adequately;

- n) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in the cost approach for his appraisal of the Scroggins property;
- o) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- p) USPAP Standards 1-5(a) and 2-2(b)(viii) – Respondent failed to analyze the agreement of sale for the subject current as of the effective date of the appraisal;
- q) USPAP Standards 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject within 3 years prior to the effective date of the appraisal;
- r) USPAP Standards 1-4(d) and 2-2(b)(viii) – Respondent failed to report the effect on value of terms of the lease in an appraisal of the leased fee or leasehold estate and did not provide supporting documentation, analysis or data;
- s) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

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 the appraisal report for the Winnsboro 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 Competency Rule – Respondent failed to comply with the Competency Rule because he did not perform the assignment in a competent manner and did not employ recognized methods and techniques;
- c) USPAP Scope of Work Rule; USPAP Standards 1-2(h) & 2-2(b)(vii) – Respondent failed to expand scope of work to reflect the necessary steps to produce a credible appraisal and did not communicate the scope of work he performed;
- d) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) and 2-2(x) – Respondent failed to clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the analysis, opinions and conclusions;

- e) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description and did not identify and report improvement(s) description adequately;
- f) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to consider and report deed restrictions;
- g) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to analyze the effect on use and value of existing land use regulations and economic supply and demand;
- h) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop or communicate an opinion of highest and best use;
- i) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
- j) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- k) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile accrued depreciations adequately;
- l) USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in the cost approach for his appraisal of the Winnsboro property;
- m) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- n) USPAP Standards 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject within years prior to the effective date of the appraisal;
- o) USPAP Standards 1-4(d) & 2-2(b)(viii) – Respondent failed to consider, analyze and report the effect on value of terms and conditions of the lease in appraisal of the leased fee or leasehold estate;
- p) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods

and techniques. This resulted in an appraisal report that was not credible or reliable.

7. Respondent omitted material facts and made material misrepresentations as described in more detail above.

8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.

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

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by misrepresenting and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

### ORDER

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

1. **EDUCATION.** On or before February 16, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this 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 certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this 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) fifteen hour classroom course in USPAP;

b. A minimum (15) fifteen hour classroom course in the sales comparison approach; and,

c. A minimum (15) fifteen hour classroom course in the cost approach.

2. **MENTORSHIP.** On or before November 16, 2013, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**
3. **EXAMINATION.** On or before May 16, 2014, Respondent shall submit to a reexamination for his general certification, receive a passing grade on such reexamination and submit satisfactory evidence of successfully passing the reexamination.
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and
5. 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.

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS 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 AND ADMINISTRATIVE PENALTY 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, 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.** 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.

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. Respondent shall retain

documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to [compliance.talcb@talcb.texas.gov](mailto: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.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH 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, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK OR RE-EXAMINATION OR FAILURE TO PROVIDE LOGS.

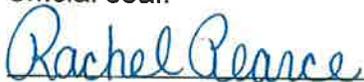
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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.

Signed this 12 day of July, 2013.

  
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JAMES M. WILLIS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 12 day of July, 2013, by JAMES M. WILLIS, to certify which, witness my hand and official seal.

  
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Notary Public Signature



Rachel Karce  
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 23<sup>rd</sup> day of July, 2013.

Troy Beaulieu  
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 16 day of Aug, 2013.

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

Approved by the Board and Signed this 16 day of Aug, 2013.

Walker Beard  
Walker Beard, Chairperson  
Texas Appraiser Licensing and Certification Board