

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

EDWARD E. WOODRUFF
TX-1323364-R

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DOCKETED COMPLAINT NO. 09-056
10-360

AGREED FINAL ORDER

On this the 11th day of JANUARY, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Edward E. Woodruff, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Edward E. Woodruff 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 and hereby fully, finally and completely resolves all issues incident to these complaint matters:

FINDINGS OF FACT

1. Respondent Edward E. Woodruff is a state certified residential real estate appraiser who currently holds and held certification number TX-1323364-R during all times material to the above-noted complaint case.
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. Respondent appraised real property located at 2801 Wichita Street, Houston, TX 77004 ("the Wichita property") on or about August 26th, 2005 and January 27th, 2006.
4. Thereafter, complaints relating to each of these real estate appraisal reports was filed with the Board. The complaints alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice and not completed properly.
5. On or about November 24th, 2008, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was

afforded an opportunity to respond to the accusations alleged in the complaints. Respondent's response 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 the appraisal report for the Wichita property:

a. USPAP Ethics Rule (record keeping) -- Respondent violated the record keeping provisions of the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;

b. USPAP Standard 1-2(e)(i) & 2-2(b)(iii) -- Respondent has failed to identify and report the site description adequately by inconsistently and incorrectly reporting the property's site size, which resulted in a misleading appraisal report;

c. USPAP Standard 1-2(e)(i) & 2-2(b)(iii), 2-1(a) and 1-1(b) -- Respondent misrepresented the property's condition and physical characteristics and the extent of repairs made to the property and did not analyze and report the property's actual repairs and true condition;

d. USPAP Standards 1-3(b) & 2-2(b)(ix) -- Respondent misrepresented the nature and type of properties in the immediate area and failed to provide his supporting rationale for his determination of the property's highest and best use;

e. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) -- Respondent has failed to provide support in his work file or appraisal report for his site value determination and failed to employ recognized methods or techniques to determine lot value. The market data available to Respondent at the time does not support his site value determination and instead indicates a value significantly lower;

f. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) -- Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. This included: (1) failing to provide support in his work file for the cost figures used; (2) misrepresenting the cost new of improvements which resulted in an inflated cost of improvements figure and (3) failing to employ recognized methods and techniques in his analysis of the cost of the improvements;

g. USPAP Standards 1-1(a) & 1-4(b) -- For the reasons detailed above, Respondent failed to employ recognized methods and techniques in his cost approach;

h. USPAP Standards 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a) -- Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate properties as comparable sales (in terms of salient market characteristics) and went outside of the property's area even though more appropriate, more similar sales were

readily available in the immediate area and should have been used. Respondent also made inappropriate adjustments or omitted appropriate adjustments and failed to provide support for such adjustments or lack of adjustments to the sales he did use;

i. USPAP Standards 1-4(c)(i) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile comparable rental data and / or the potential earnings capacity of the property to determine the gross income potential of the property;

j. USPAP Standards 1-4(c)(iii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile comparable data to estimate capitalization and / or discount rates;

k. USPAP Standards 1-1(a) & 1-4(c) – For the reasons detailed above, Respondent failed to employ recognized methods and techniques correctly in his income approach;

l. USPAP Standards 1-5(a) & 2-2(b)(ix); 1-1(b); 1-6(a) & (b) & 2-2(b)(ix) – Respondent did not report, analyze nor reconcile significant and material information regarding the property's listing history (at much lower prices) with his greatly higher market value determination;

m. USPAP Standards 1-5(b) & 2-2(b)(ix); 1-1(b); 1-6(a) & (b) & 2-2(b)(ix) – Respondent failed to analyze prior sales of the property, provide his supporting rationale for his determinations and failed to reconcile this significant and material information;

n. USPAP Standards 1-1(a), 1-1(b), 1-1(c); and, 2-1(a) – Respondent produced misleading appraisal reports for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques and not analyzing and reconciling significant and material information he had a duty to analyze and reconcile. This resulted in appraisal reports that had inflated value determinations and were not credible or reliable.

7. Respondent omitted material facts and made material misrepresentations in the appraisal reports for the Wichita property as detailed above.

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

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 § 1103.451-1103.5535.

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)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations 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.

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

- 1) Submit to a 12 month review period under the following conditions:
 - (a) Twelve month review 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 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 this period of review within the twenty days of notice of any such request. During the review period the Board shall not request more than 2 such appraisal reports and work files during any one quarterly period;
 - (b) Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order;
- 2) Attend and complete a minimum, 15 classroom-hour course in Uniform Standards of Professional Appraisal Practice;
- 3) Attend and complete a minimum, 7 classroom-hour course in Staying Out of Trouble;
 - (a) No examination shall be required for this course;
- 4) Within 12 months of the effective date of this order, Respondent shall complete 15 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board within the following time frames: (a) 8 hours shall be completed within the first 6 months; (b) the remaining 7 hours shall be completed within 12 months. At the conclusion of both the 6 month and 12 month time periods, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the corresponding number of mentorship hours;

5) Pay to the Board an administrative penalty of \$1,800.00;

(a) Payment of the administrative penalty shall be made in 18, equal, monthly \$100.00 installments due by the 20th of each month during the review period, and;

6) 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.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered in accordance with the terms of this Agreed Final Order.

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

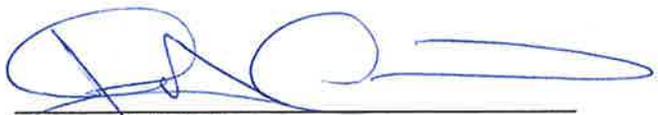
ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided 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 _____ day of _____, 2012.


EDWARD E. WOODRUFF

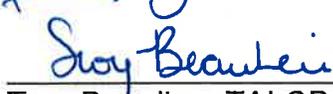

JOHN ATWOOD, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the _____ day of _____, 2012, by EDWARD E. WOODRUFF, to certify which, witness my hand and official seal.

Notary Public Signature

Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 11th day of January, 2012.


Troy Beaulieu, TALCB Managing Attorney

Signed by the Commissioner this 17 day of Feb, 2012.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17 day of Feb, 2012.


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