

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

KYLE BAYNE ADAMS
TX-1337648-P

§
§
§
§
§
§
§

DOCKETED COMPLAINT NO.
10-187

FINAL ORDER

On this 20th day of August, 2010, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the appraiser license of Kyle Bayne Adams is hereby **REVOKED**, effective twenty days after the date Kyle Bayne Adams is notified of this Final Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and signed this 20th day of August, 2010.



James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board

State Office of Administrative Hearings



RECEIVED

JUN 30 2010

Cathleen Parsley
Chief Administrative Law Judge Texas Real Estate Commission

RECEIVED

JUN 30 2010

June 29, 2010

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

Douglas E. Oldmixon
Administrator
Texas Appraiser Licensing and Certification Board
1101 Camino La Costa
Austin, Texas 78752

INTER-AGENCY

RE: Docket No. 329-10-4215.ALC; Texas Appraiser Licensing and Certification Board v. Kyle B. Adams

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "W. K. L. Harvel".

Wendy K. L. Harvel
Administrative Law Judge

WKH/lb
Enclosure

xc: Kyle B. Adams, 6202 Calumet Road, Amarillo, TX 79106 - **VIA REGULAR MAIL**
Troy Beaulieu, 1101 Camino La Costa, Austin, TX 78752 – (with 1 hearing CD(s); Certified Evidentiary Record) -
VIA INTER-AGENCY

**SOAH DOCKET NO. 329-10-4215.ALC
(LICENSE NO. TX-1337648-P)**

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
V.	§	OF
	§	
KYLE B. ADAMS,	§	
Respondent	§	
	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Appraiser Licensing and Certification Board (Staff/Board) seeks to revoke the real estate appraiser provisional license issued to Kyle B. Adams (Respondent). Staff alleges that Respondent violated the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ch. 1103, and the Board's rules by failing to respond to Staff's inquiry and request for documents related to a complaint. Respondent did not respond to Staff's notice of hearing and did not appear at the hearing. The Administrative Law Judge (ALJ) recommends that Respondent's provisional license be revoked.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On June 22, 2010 ALJ Wendy Harvel convened the hearing at the State Office of Administrative Hearings, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Staff Attorney Troy Beaulieu represented Staff. Respondent did not appear and was not represented at the hearing. The record closed on the same day.

After establishing that appropriate notice of the hearing was provided to Respondent and that the Board has jurisdiction, Staff moved for a default. In accordance with 1 TEX. ADMIN. CODE § 155.501, the allegations in Staff's notice of hearing were accepted as true and the default was granted.

II. RECOMMENDATION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 TEX. ADMIN. CODE § 155.501, the ALJ granted Staff's motion for default, and recommends that Respondent's real estate appraiser provisional license be revoked.

III. FINDINGS OF FACT

1. Kyle B. Adams (Respondent) holds real estate appraiser provisional license number TX-1337648-P (license) issued by the Texas Appraiser License and Certification Board (Board).
2. A complaint was filed against Respondent concerning possible violations of the Uniform Standards of Professional Appraisal Practice in the appraisal of property located at 6 Aztec Drive, Canyon, Texas 79015.
3. Board Staff notified Respondent of the complaint and provided him an opportunity to respond to the allegations and requested that Respondent provide documentation related to the complaint.
4. Respondent failed to respond to Staff's inquiry and to provide the requested documentation.
5. Respondent's last address of record with the Board is: 6020 Calumet Road, Amarillo, Texas 79106.
6. On May 18, 2010, Staff sent Respondent a notice of hearing and its Original Statement of Charges by certified mail to his last address of record on file with the Board.
7. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
8. Respondent did not submit an answer to Staff's allegations incorporated into the notice of hearing.
9. The hearing on the merits convened on June 22, 2010, at the State Office of Administrative Hearings, William B. Clements Building, 300 West 15th Street, Austin, Texas.
10. Staff appeared at the hearing through Staff Attorney Troy Beaulieu. Respondent did not appear at the hearing either personally or through authorized representative.

11. Staff moved for default, which was granted following the admission of evidence establishing proper jurisdiction and notice.

IV. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter. TEX. OCC. CODE ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding pursuant to TEX. OCC. CODE § 1103.508, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. chs. 2001 and 2003.
3. Pursuant to TEX. OCC. CODE § 1103.403, Respondent was required to notify the Board of any change of his office address not later than the 10th day after the date he moved from a previously designated address.
4. Pursuant to 22 TEX ADMIN. CODE § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice by certified mail to Respondent's most recent address as shown in the Board's records.
5. Staff provided proper notice of hearing to Respondent's most recent address in the Board's records. TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052 and TEX. OCC. CODE § 1103.502.
6. The allegations stated in the notice of hearing are deemed admitted pursuant to 1 TEX. ADMIN. CODE § 155.501.
7. Based on the above Findings of Fact, Respondent failed to respond to the Board's inquiry in violation of 22 TEX. ADMIN. CODE § 153.22.
8. The Board is authorized to suspend or revoke the Respondent's appraiser provisional license for violation of the Board's rules. TEX. OCC. CODE § 1103.518(2)(B) and 22 TEX. ADMIN. CODE § 153.20(a)(2).
9. Based on the above Findings of Fact and Conclusions of Law, the Board should revoke Respondent's real estate appraiser provisional license.

SIGNED June 29, 2010.


WENDY K.L. HARVEL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS