



5. As a result of the Board's investigations, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6), 153.20(a)(12), and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisals of the Elk Mountain Property:

- a. USPAP Standards 1-2(e) & 2-2(a)(iii) – Respondent failed to identify and describe the improvements adequately;
- b. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii) - Respondent failed to utilize appropriate methods and techniques when developing an opinion of site value. failed to collect, verify, or analyze comparable data to determine depreciation;
- c. USPAP Standards 1-4(a) & 2-2(a)(viii) – Respondent failed to adequately collect, verify, and/or analyze comparable sales data and did not employ recognized methods and techniques in the sales comparison approach;
- d. USPAP Standards 1-4(c) & 2-2(a)(viii); 1-6(a); 1-6(b) and Scope of Work Rule – Respondent failed to explain and support his exclusion of this approach when market data indicates 95 houses were leased in the subject subdivision within the year prior to the date of Respondent's appraisal. Given these figures, an income approach was necessary for credible assignment results;
- e. USPAP Standards 1-5(a) & 2-2(a)(viii); 1-6(a), 1-6(b), & 2-2(a)(viii) – Respondent failed to analyze the agreement of sale as of the effective date of the report and reconcile this data with his approaches to value by addressing the disparity between the contract price and the list price.
- f. USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was misleading and not credible for the Elk Mountain Property.

6. As a result of the Board's investigations, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6), 153.20(a)(12), and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisals of the Maxwell Property:

- a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing the documentation necessary to support his opinions and conclusions;
- b. USPAP Standards 1-2(f), 1-2(g), 2-1(c) & 2-2(a)(xi) – Respondent failed to disclose an extraordinary assumption he made about the property's improvements and instead erroneously reported the property was being appraised "as is";
- c. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-2(e) & 2-2(a)(iii); 1-3(a) & 2-2(a)(viii); 1-3(b) & 2-2(a)(ix) - Respondent failed to describe and identify the site and

improvements adequately, did not identify and analyze the effect on use and value of existing land-use regulations and physical adaptability, and did not analyze and explain his highest and best use conclusions adequately. Due to the property's presence in the flood plain, large lot size (8.9 acres) and zoning, analysis of these factors was significant and material to producing credible assignment results. However, Respondent failed to note these items and provide any such analysis.

- d. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii) – Respondent failed to utilize appropriate methods and techniques in the cost approach, failed to provide supporting explanation for his site value determinations and erroneously calculated accrued depreciation, which was much more significant than the appraiser noted;
  - e. USPAP Standards 1-4(a) & 2-2(a)(viii) - Respondent failed to collect, verify, and/or analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach
  - f. USPAP Standards 1-1(a), 1-1(b), and 2-1(a)– For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was misleading and not credible for the Maxwell Property.
7. Respondent made material misrepresentations and omissions of material fact with respect to the appraisals of the Elk Mountain Property and the Maxwell Property, as detailed above.
8. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1, 153.20(a)(1) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact
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 15, 2017**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final 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 fifteen (15) classroom hour course in USPAP.
2. **MENTORSHIP.** On or before **November 17, 2016**, Respondent shall complete twelve (12) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Three (3) hours concerning the Cost Approach;
  - b. Three (3) hours concerning the Sales Comparison Approach;
  - c. Three (3) hours concerning Highest and Best Use;
  - d. One (1) hour addressing Reconciliation;
  - e. Two (2) hours addressing the USPAP Scope of Work Rule and when an Income Approach is necessary for credible assignment results.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM 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 SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, 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 or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as *res judicata*, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. 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 website.

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 and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing 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 (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

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.

**EXECUTION**

This agreement may be executed in one or more counterparts, in the 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.

**RESPONDENT**

Signed this 3<sup>rd</sup> day of August, 2016.

Larry E. Amyx  
Larry Earl Amyx

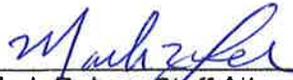
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 3<sup>rd</sup> day of August, 2016, by Larry Earl Amyx, to certify which witness my hand and official seal.



Rachel Blakeley  
Notary Public's Signature

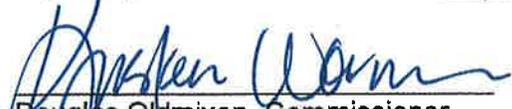
**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 3<sup>rd</sup> day of August, 2016.

  
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Mark R. Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

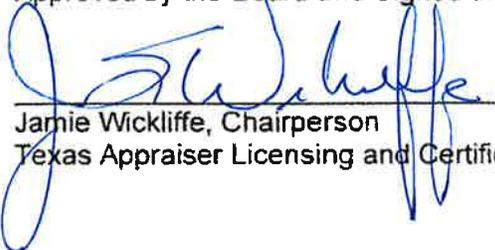
**COMMISSIONER**

Signed by the Commissioner this 4<sup>th</sup> day of August, 2016.

*for*   
\_\_\_\_\_  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this 19 day of August, 2016.

  
\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board