

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

FRANK EDWARD CHILDRESS
TX-1336204-R

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§ DOCKETED COMPLAINT NO. 10-107 &
§ 10-285
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§

AGREED FINAL ORDER

On this the 18th day of May, 2012, the Texas Appraiser Licensing and Certification Board, (the Board) considered the matter of the certification of Frank Edward Childress (Respondent).

In order to conclude this matter Frank Edward Childress 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, Frank Edward Childress, is a state certified residential real estate appraiser who currently holds and held certification number TX-1336204-R during all times material to the above-noted complaint cases.
2. Respondent appraised Lot 6 Block 1, Section 11, Grand Lakes Estates Subdivision, Montgomery, Texas ("the Lot 6 property") on or about July 23rd, 2007.
3. Respondent appraised Lot 44 Block 2, Section 9, Grand Lakes Estates Subdivision, Montgomery, Texas ("the Lot 44 property") on or about December 3rd, 2007.
4. On or about December 15th, 2009 and May 20th, 2012, two staff-imitated complaints were filed with the Board based on a referral from the Texas Department of Insurance's Fraud Unit, which contained allegations that the Respondent had produced inflated appraisal reports for the Lot 6 property and the Lot 44 property that contained various USPAP violations.
5. 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, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in

the complaints. Respondent's responses to the complaints were 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 reports for the Lot 6 and Lot 44 properties:
 - a) Respondent failed to comply with the conduct provisions of the Ethics Rule;
 - b) Respondent failed to comply with the record keeping provisions of the Ethics Rule;
 - c) Respondent failed to comply with the Scope of Work Rule, by allowing pressure from his client to narrow his scope of work to such a degree that he could not produce credible assignment results;
 - d) Respondent failed to comply with the Supplemental Standards Rule by not identifying the neighborhood by name or boundaries as required by FannieMae;
 - e) Respondent failed to identify and report the site description adequately;
 - f) Respondent failed to consider, report and analyze easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
 - g) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, zoning ordinances, economic supply and demand, physical adaptability of the real estate and market area trends;
 - h) Respondent has failed to provide a brief summary of his supporting rationale for his determination of the Lot 6 and Lot 44 properties' highest and best use;
 - i) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in his sales comparison approach;
 - j) Respondent failed to analyze, reconcile and report on the contract of sale for the Lot 44 and Lot 6 properties;

k) Respondent's appraisal reports contain substantial errors of commission or omission as detailed above which resulted in misleading appraisal reports for the Lot 44 and Lot 6 properties.

7. Respondent has made material misrepresentations and omitted material facts 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 Ethics Rule (conduct and record keeping); USPAP Scope of Work Rule; USPAP Supplemental Standards Rule; USPAP Standards: 1-2(h); 1-2(e)(i) & 2-2(b)iii); 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and 2-1(a).
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 Respondent shall:

a. Have his certification revoked for twenty-four (24) months, beginning on Friday, May 18th, 2012, with this ~~suspension~~ *revocation* being fully probated under the following terms and conditions:

- i. At every six month period of the twenty-four month period (i.e. November 19th, 2012, May 18th, 2013, November 19th, 2013 and May 18th, 2014), Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board. The log shall detail all real estate appraisal activities he has conducted for the previous six month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Such experience logs must be timely and promptly submitted on every six month anniversary of the effective date of this order (i.e. on or before November 19th, 2012, May 18th, 2013, November 19th, 2013 and May 18th, 2014) during the entire 24 month probationary period;
- ii. Upon request from the Board, Respondent shall timely and promptly provide copies of his appraisal reports and work files for any appraisal assignments identified on the experience log within the twenty (20)

days of notice by the Board of any such request;

- iii. Respondent shall not sponsor any real estate appraiser trainees during the entire 24 months of probation;
- b. Attend and complete a minimum, 15 classroom-hour course in the Uniform Standards of Professional Appraisal Practice;
- c. Attend and complete a minimum, 7 classroom-hour course in Staying Out of Trouble;
 - i. No examination shall be required for this course;
- d. Attend and complete a minimum, 7 classroom-hour course in Valuation by Comparison;
 - i. No examination shall be required for this course;
- e. Within 6 months of the effective date of this order (i.e. on or before November 19th, 2012) Respondent shall complete 10 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 6 months of the effective date of this order (i.e. on or before November 19th, 2012), Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- f. Pay a \$4,000.00 administrative penalty with \$1,500.00 of the \$4,000.00 probated under the condition that Respondent, within 30 days of completing the each of the courses indicated above (i.e. not later than June 18th, 2013), shall submit a signed, dated, written, 2 page report to the Board for each of these three courses which shall indicate: (i) what he learned from the course and (ii) how he intends to apply the course material to his appraisal practice in the future to avoid similar violations;
 - i. Payment of the \$2,500.00, non-probated portion of the administrative penalty may be made in 10, equal, monthly installment payments of \$250.00, which shall be timely and promptly submitted to the Board in accordance with the following payment scheduled:
 - a. 1st payment due by: June 1st, 2012
 - b. 2nd payment due by: July 2nd, 2012
 - c. 3rd payment due by: August 1st, 2012
 - d. 4th payment due by: September 3rd, 2012
 - e. 5th payment due by: October 1st, 2012
 - f. 6th payment due by: November 1st, 2012

- g. 7th payment due by: December 3rd, 2012
- h. 8th payment due by: January 1st, 2013
- i. 9th payment due by: February 1st, 2013
- j. 10th payment due by: March 1st, 2013

g. Fully cooperate with the Board's ongoing investigations, including providing all requested information and documentation Respondent may have in an accurate and truthful manner. If necessary, Respondent will also provide truthful, complete and accurate testimony about Bank of America appraisal practices, processes, procedures and Respondent's experiences as a staff appraiser for Bank of America (including information and experiences previously discussed with Board Staff). This includes Respondent's appraisal activities in the Grand Lake Estates subdivision in Montgomery County, Texas during Respondent's time as an employee or independent contractor for Bank of America; and,

h. 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.

Payment of the non-probated portion of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered in accordance with the payment schedule outlined in this Agreed Final Order.

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 (i.e. on or before May 18th, 2013) 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 licensure or certification. ***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

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 license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

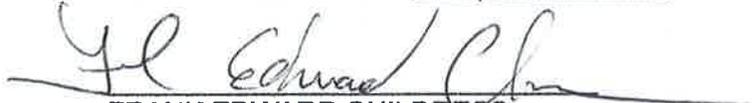
ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURES ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH

HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by first class mail or e-mail to the last known address as provided to the Board.

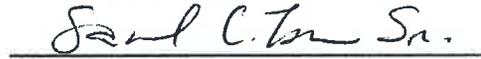
RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

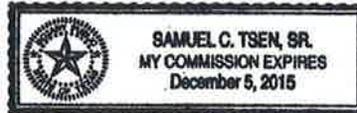
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 1st day of MAY, 2012.


FRANK EDWARD CHILDRESS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1st day of MAY, 2012, by FRANK EDWARD CHILDRESS, to certify which, witness my hand and official seal.


Notary Public Signature

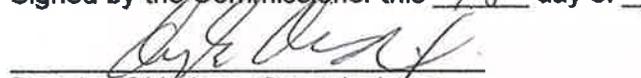


SAMUEL C. TSEN SR.
Notary Public's Printed Name

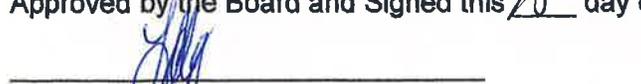
Signed by the Standards and Enforcement Services Division this 17th day of MAY, 2012.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 18 day of May, 2012.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 18 day of May, 2012.


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