

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ELTON RAY CROSS
TX-1330471-R

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DOCKETED COMPLAINT NO.
06-123 & 07-125

AGREED FINAL ORDER

On this the 11th day of FEBRUARY, 200~~8~~, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Elton Ray Cross, (Respondent). 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 Elton Ray Cross is a Texas state certified residential real estate appraiser, holds certification number TX-1330471-R, and has been certified by the Board during all times material to the above-noted complaint cases.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about October 22nd, 2004 Respondent appraised real property located at 1202 Bow Creek, Duncanville, Texas 75116-2062 ("the property").
4. On or about April 16th, 2007, the Complainant, Deloris Kraft-Longoria, an investigator with the Board, filed a staff initiated complaint alleging that the Respondent had produced an appraisal report that contained various deficiencies. The complaint was based upon information submitted by Dana Nelson, an Investor Relations Specialist with Regions Mortgage of Cordova, Tennessee. An additional complaint on the property was also filed by Jack McComb, also an investigator with the Board, based upon information submitted by Peter G. Kopperman, Vice President, Single-family Mortgage Business for Fannie Mae in Dallas, Texas ("Fannie Mae"). Fannie Mae claimed that the appraisal report on the property contained potential violations of the Uniform Standards of Professional Appraisal Practice.
5. On or about May 17th, 2006, and May 25th, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 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 alleged in both complaints. Respondent's response to both complaints was received.

6. The Enforcement Division has concluded that the Respondent violated TEX. OCC. CODE § 1103.405 and 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 property:

- a. USPAP Ethics Rule – Respondent failed to adhere to the record keeping provisions of USPAP’s Ethics Rule because he failed to maintain documentation supporting his opinions and conclusions;
- b. USPAP Supplemental Standards – Respondent failed to comply with Fannie Mae requirements in his selection of comparable sales and identification and/or disclosure of relevant characteristics;
- c. USPAP Standard 1-1(a) -- As detailed below, Respondent failed to employ recognized methods and techniques necessary to produce a credible appraisal report on the property;
- d. USPAP Standard 1-1(b) – As outlined below, Respondent committed substantial errors of omission and commission in both his sales comparison and cost approaches;
- e. USPAP Standard 1-1(c) – Based on the below-noted efficiencies, Respondent has rendered appraisal services in a careless or negligent manner;
- f. USPAP Standard 1-2(c) – Respondent failed to develop an opinion of reasonable exposure time;
- g. USPAP Standard 1-2(e) – Respondent did not identify the relevant characteristics of the property;
- h. USPAP Standard 1-2(f) – Respondent failed to develop and identify a scope of work necessary to complete the appraisal on the property in a credible manner;
- i. USPAP Standard 1-2(g) – Respondent failed to identify reliance on extraordinary assumptions that were employed and necessary for the production of a credible appraisal report on the property;
- j. USPAP Standard 1-3(a) – Respondent made unsupported assumptions about the effective age and remaining life of the property;
- k. USPAP Standard 1-3(b) & 2-2(b)(x) – Respondent did not provide a brief summary of his rationale for his determination of the property’s highest and best use;

- l. USPAP Standard 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately;
- m. USPAP Standard 1-4(b)(i) – Respondent did not develop an opinion of the property's site value by use of an appropriate appraisal method or technique;
- n. USPAP Standard 1-4(b)(iii) – Respondent failed to provide a market-supported basis for his accrued depreciation. He also applied depreciation inconsistently in his cost approach;
- o. USPAP Standard 1-5(a) – Respondent failed to analyze the prior listing of the property;
- p. USPAP Standard 1-5(b) -- Respondent failed to analyze the prior sales history of the property;
- q. USPAP Standard 1-6(a) – Respondent failed to reconcile the quality and quantity of the data available and analyze it within the approaches to value used;
- r. USPAP Standard 1-6(b) – Respondent did not reconcile the applicability of the approaches used to arrive at the value conclusion;
- s. USPAP Standard 2-1(a) – As noted above, Respondent's appraisal report is set forth in a manner that is misleading to the reader of the report;
- t. USPAP Standard 2-1(b) – Respondent failed to provide sufficient information so that the reader of the report could properly understand the report;
- u. USPAP Standard 2-1(c) – Respondent failed to disclose accurately the extraordinary assumptions implicated by the appraisal assignment on the property nor did he indicate those assumptions' impact on value;
- v. USPAP Standard 2-2(b)(iii) – Respondent did not summarize information sufficient to identify the real property involved in the appraisal assignment (i.e. things such as the extent of remodeling, the extent of attic conversion, the description of the in-ground pool);
- w. USPAP Standard 2-2(b)(vii) – Respondent did not summarize the scope of his work for this assignment;
- x. USPAP Standard 2-2(b)(ix) – Respondent did not summarize his information analyzed, the appraisal procedures he followed, and the reason that supports his analyses, opinions, and conclusions; and,

- y. USPAP Standard 2-3 – Respondent did not clearly specify who conducted a personal inspection of the property.
7. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations and omissions of material facts in the appraisal report of the property. These material misrepresentations and omissions of material fact include: Omitting discussion and analysis of prior sales and listing history for the property; omitting important, more appropriate comparable sales that were readily available in the property's area and should have been used and omitting discussion and analysis of the attic conversion and extent of remodeling.

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 USPAP provisions as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a):
USPAP Standards Rules: 1-1(a); 1-1(b); 1-1(c); 1-2(c); 1-2(e); 1-2(f); 1-2(g); 1-3(a); 1-3(b) & 2-2(b)(x); 1-4(a); 1-4(b)(i); 1-4(b)(iii); 1-5(a); 1-5(b); 1-6(a); 1-6(b); 2-1(a); 2-1(b); 2-1(c); 2-2(b)(iii); 2-2(b)(vii); 2-2(b)(ix); and, 2-3.
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations and omissions of material facts in his appraisal report of the property;

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

- a. Pay to the Board an administrative penalty of \$3,500.00;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in the sales comparison approach or residential market data analysis;
- d. Attend and complete a minimum, 15 classroom-hour course in the cost approach;
- e. Attend and complete a minimum, 7 classroom-hour course in report writing; and,
- f. Comply with all 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. 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.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

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 in the Board's newsletter and/or 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 Consent Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 7 day of Jan, ~~2007~~ ²⁰⁰⁸.

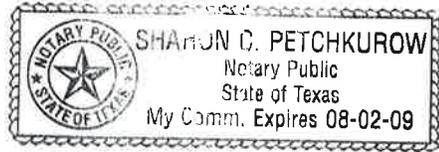


ELTON RAY CROSS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 7th day of January, 2008, by ELTON RAY CROSS, to certify which, witness my hand and official seal.

Sharon C. Petchkurow
Notary Public Signature

Sharon C. Petchkurow
Notary Public's Printed Name



Signed by the Commissioner this 7th day of February, 2008.

[Signature]
Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 11 day of February, 2008.

[Signature]
Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board