

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NOS.
15-310 & 16-057

ADRIAN CHARLES DEAN
TX-1321389-G

AGREED FINAL ORDER

On the 19 day of August, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Adrian Charles Dean (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent 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 Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds license number TX-1321389-G and was licensed by the Board during all times material to the above-noted complaints.
2. Respondent appraised residential real property located at 21914 Matagorda Drive, Galveston, Texas 77554 (Matagorda Property), on or about November 15, 2015. Respondent accepted payment for the appraisal of properties located at 1037 West Canal and 1039 West Canal, Crystal Beach, Texas 77650 (Canal Properties) on or about July 20, 2015, but as of October 1, 2015 he had not provided the agreed-upon services. On March 9, 2016, during an interview with the Complainant for complaint 16-057 the Board discovered that Respondent eventually provided a refund to his client, but only after his client filed complaints with the Better Business Bureau and the Board.
3. Complaint 15-310 was filed by a consumer on or about July 22, 2015, while Complaint 16-057 was filed by a consumer on or about October 9, 2015. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), originally notified Respondent of the nature of the accusations involved, for Complaint 15-310 on or about August 11, 2015, and for Complaint 16-057 on or about

October 15, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board.

5. Respondent failed to timely answer either complaint. Therefore, on or about October 28, 2015, the Board mailed and emailed the Respondent (to his subject addresses of record), a Final Notice of Complaint, with a new response due date of November 5, 2015, for Complaint 15-310. A Final Notice of Complaint for Complaint 16-057 was mailed and emailed to Respondent on or about November 12, 2015 with a new response due date of November 20, 2015.

6. Respondent failed to answer either Final Notice by the deadline. Thereafter, on or about February 8, 2016, the Board mailed and emailed Respondent Notice of Violation and Penalty for not responding, with a response due date of February 29, 2016. The Respondent finally addressed the accusations and supplied documentation for both complaints (15-310 and 16-057), on or about February 29, 2016.

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

- a. USPAP Record Keeping Rule – Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support the opinions, and conclusions in the appraisal;
- b. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to show comparable cost data to estimate cost new of improvements, and/or failed to document comparable data to estimate the difference between cost new and the present worth of the improvements (although the Respondent did request such information from the property owner); and
- c. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) -- Respondent failed to provide his supporting, adequate reasoning for his adjustments and failed to provide an adequate explanation for the selection of comparable sales using relevant evidence and logic.

8. In order to reach an expeditious resolution of these matters 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 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making omissions of material fact regarding his appraisal of the Matagorda Property.
4. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) by failing to respond timely to both complaints despite repeated requests.
5. 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. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete eight (8) 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. Four (4) hours concerning the sales comparison approach to include selection of sales and support for adjustments; and
 - b. Four (4) hours concerning all aspects of the cost approach.
2. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of one-thousand dollars (\$1,000.00) in (4) four monthly payments of \$250 each, by cashier's check or money order, as follows:
 - a. \$250.00 on or before September 8, 2016;
 - b. \$250.00 on or before October 8, 2016;
 - c. \$250.00 on or before November 8, 2016;
 - d. \$250.00 on or before December 8, 2016

Respondent must make all payments set forth above timely and without any grace period or notice from the Board. Failure to submit payments timely

automatically suspends Respondent's Texas certified general appraiser license until ALL of the remaining balance of the administrative penalty is paid in full.

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; (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.

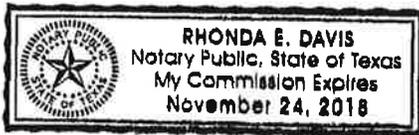
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

RESPONDENT

Signed this 10th day of AUGUST, 2016.

Adrian Charles Dean
Adrian Charles Dean

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 10th day of August, 2016, by Adrian Charles Dean, to certify which witness my hand and official seal.



Rhonda E. Davis
Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 9th day of August, 2016.



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

COMMISSIONER

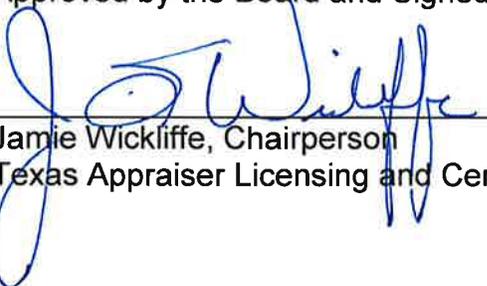
Signed by the Commissioner this 9 day of Aug, 2016.



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