

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JUSTIN MITCHELL DUNCUM  
TX-1325185-R

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DOCKETED COMPLAINT NO. 08-243

**AGREED FINAL ORDER**

On this the 16<sup>th</sup> day of October, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Justin Mitchell Duncum, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Justin Mitchell Duncum 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 Justin Mitchell Duncum, is a state certified residential real estate appraiser, holds certification number TX-1325185-R, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about August 3<sup>rd</sup>, 2006, the Respondent appraised real property located at 5223 Eigel Street, Houston, Texas 77007 ("the property").
4. On or about August 26<sup>th</sup>, 2008, David Wilson filed a staff-initiated complaint with the Board based on allegations from the Fraud Unit of the Texas Department of Insurance that the Respondent had produced an appraisal report that contained potential deficiencies.
5. Thereafter, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond

to the accusations alleged by the Complainant. Respondent's response to the complaint was 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 report for the property:

- a) Respondent violated the Scope of Work Rule by not performing the research necessary to develop credible assignment results;
- b) Respondent violated the record keeping provisions of the Ethics Rule by failing to maintain a complete work file with supporting documentation for the analysis and opinions and conclusions in his appraisal report for the property;
- c) Respondent failed to identify and report the improvements description and site description adequately;
- d) Respondent failed to identify and analyze the impact on use and value of economic supply and demand and market area trends;
- e) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- f) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements in his cost approach and failed to employ recognized methods and techniques correctly in his cost approach;
- g) Respondent failed to employ recognized methods and techniques correctly in his sales comparison approach and did not collect, verify, analyze and reconcile comparable sales data adequately;
- h) Respondent failed to explain or support his exclusion of the income approach; and,
- i) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent omitted material facts and made material misrepresentations in his appraisal report 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 §§ 1103.451-1103.5535 (Vernon 2007).

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 Scope of Work Rule; USPAP Ethics Rule (record keeping provisions); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(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 omitting material facts and making material misrepresentations.

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

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach;
- c. Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use;
- d. Attend and complete a minimum, 7 classroom-hour seminar in Market Conditions and Sales Concessions;
  - i. No examination shall be required for this course; and,
- e. 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. 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 certification.

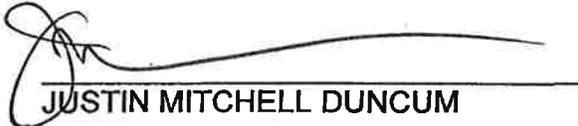
Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

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 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.

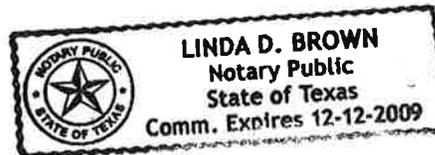
Signed this 14<sup>th</sup> day of October, 2009.

  
JUSTIN MITCHELL DUNCUM

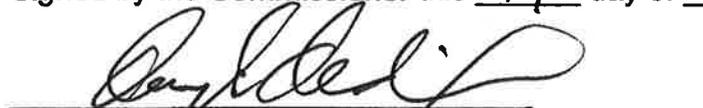
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 14 day of Oct, 2009, by JUSTIN MITCHELL DUNCUM, to certify which, witness my hand and official seal.

Linda D Brown  
Notary Public Signature

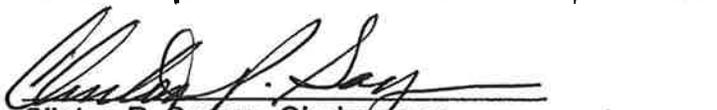
LINDA D BROWN  
Notary Public's Printed Name



Signed by the Commissioner this 19 day of Oct, 2009.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16<sup>th</sup> day of October, 2009.

  
Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board