

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

DONALD ROY ENDERS  
TX-1334547-R

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DOCKETED COMPLAINT NO. 08-045

**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 Donald Roy Enders, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Donald Roy Enders 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 Donald Roy Enders, was a state certified residential real estate appraiser, held certification number TX-1334547-R, and was 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 April 11<sup>th</sup>, 2006, the Respondent appraised real property located at 17735 Old Corpus Christi Road, Elmendorf, Texas 78112 ("the property").
4. On or about November 14<sup>th</sup>, 2007, the Complainant, Mr. Charles Lee Rogers, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained potential violations of USPAP.
5. On or about November 28<sup>th</sup>, 2007, 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. Since the time of these complaints, Respondent's state certification as a real estate appraiser has expired and Respondent no longer desires to hold a license, certification, authorization or registration from the Board. Without admitting any wrongdoing, and in order to resolve these matters without incurring the time and expense of litigation, Respondent acknowledges that his state certification has lapsed and he is hereby agreeing not to seek renewal of the certification, nor to apply for any authorization, license, certification or registration with the Board in the future.

7. 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 record keeping provisions of the Ethics Rule because he failed to maintain a work file containing all data, information, and documentation necessary to support his opinions and conclusions;
- b) Respondent failed to identify and analyze the effect on use and value of economic supply and demand and market area trends (including addressing the high percentage of REO's and distressed manufactured homes) and provide support for this information;
- c) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- d) Respondent failed to employ an appropriate method or technique to develop opinion of the site value;
- e) Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements in his cost approach;
- f) Respondent failed to employ recognized methods and techniques correctly in his cost approach for the reasons noted in subsections (d) and (e);
- 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 analyze all sales of the property within 3 years prior to the effective date of the appraisal;
- i) Respondent failed to analyze and report the effect of value on the assemblage of various estates or component parts of the property;
- j) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading review appraisal report.

8. 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 Ethics Rule; USPAP Standards: 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(b) & 2-2(b)(ix); 1-4(e) & 2-2(b)(ix); 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 Respondent shall not seek renewal of his certification, nor apply to the Board for any authorization, license, certification or registration in the future.

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.

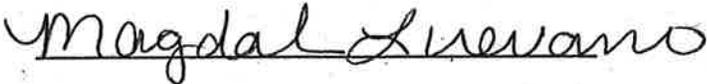
Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published 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 Oct, 2009.

  
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DONALD ROY ENDERS

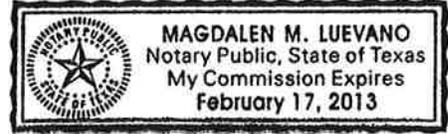
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 14<sup>th</sup> day of October, 2009, by DONALD ROY ENDERS, to certify which, witness my hand and official seal.

  
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Magdal Luevano

Notary Public Signature

Magdalen Luevano

Notary Public's Printed Name



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

Douglas Oldmixon

Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16th day of October, 2009.

Clinton P. Sayers

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