

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOUGLAS FELSKE
TX-1322244-G

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DOCKETED COMPLAINT NO.
09-269

AGREED FINAL ORDER

On this the 18th day of April, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Douglas Felske (Respondent).

In order to conclude this matter Douglas Felske 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, Douglas Felske, is a certified general appraiser who currently holds certification number TX-1322244-G, and held that certification number during all times material to the above-noted complaint case.
2. Respondent appraised 421 2nd Street, San Leon, Texas 77539 (the "property") on or about March 27, 2009 (the "March appraisal report").
3. Respondent appraised 421 2nd Street, San Leon, Texas 77539 (the "property") on or about June, 1 2009 (the "June appraisal report").
4. Thereafter, a complaint relating to these real estate appraisal reports was filed with the Board. The complaint alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") and not completed properly.
5. After receipt of the complaint, 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 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 March appraisal report for the property:

- a) USPAP Ethics Rule – Respondent failed to comply with the USPAP ethics rule because he communicated assignment results in a misleading manner through the omission of material data, and commission of significant errors and failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions;
- b) USPAP Scope of Work Rule; USPAP Standards 1-2(h) & 2-2(b)(viii) – Respondent failed to comply with the Scope of Work Rule by failing to give relevant evidence and logic, necessary for a credible assignment result and misrepresented that his scope of work included inspection of the interior of the property when he had not inspected it;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to adequately identify and report improvements;
- d) USPAP Standards 1-3(b) & 2-2(b)(ix)-- Respondent failed to provide his supporting rationale for his determination of the property's highest and best use;
- e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); and, 1-1(a) & 1-4(b) --Respondent failed to use an appropriate method or technique to develop an opinion of the site value; failed to collect, verify, analyze and reconcile the cost new of improvements; and generally failed to employ recognized methods and techniques for the Cost Approach; and,
- f) USPAP Standards 1-1(a), 1-1(b), 1-1(c); 2-1(a) and, 2-1(b) – Respondent produced misleading appraisal reports for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques and not analyzing and reconciling significant and material information he had a duty to analyze and reconcile. This resulted in appraisal reports that had inflated value determinations and were not credible or reliable.

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 June appraisal report for the property:

- a) USPAP Ethics Rule – Respondent failed to comply with the USPAP ethics rule because he communicated assignment results in a misleading manner through the omission of material data, and commission of significant errors and failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions;
- b) USPAP Scope of Work Rule; USPAP Standards 1-2(h) & 2-2(b)(viii) – Respondent failed to comply with the Scope of Work Rule by failing to give relevant evidence and logic, necessary for a credible assignment result and misrepresented that his scope of work included inspection of the interior of the property when he had not inspected it;

- c) USPAP Standards 1-2(b) & 2-2(b)(ii) – Respondent failed to identify the intended use of the appraiser’s opinions and conclusions;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to adequately identify and report improvements;
- e) USPAP Standards 1-3(b) & 2-2(b)(ix)-- Respondent failed to provide his supporting rationale for his determination of the property’s highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); and, 1-1(a) & 1-4(b) --Respondent failed to use an appropriate method or technique to develop an opinion of the site value; failed to collect, verify, analyze and reconcile the cost new of improvements; and generally failed to employ recognized methods and techniques for the Cost Approach; and,
- g) USPAP Standards 1-1(a), 1-1(b), 1-1(c); 2-1(a) and, 2-1(b) – Respondent produced misleading appraisal reports for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques and not analyzing and reconciling significant and material information he had a duty to analyze and reconcile. This resulted in appraisal reports that had inflated value determinations and were not credible or reliable.

8. Respondent omitted material facts and made material misrepresentations as described in more detail above.

9. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

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 above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

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

- a. During a one (1) year review period, beginning on the effective date of this order, Respondent shall submit to the Board, within seven (7) days of completion of the quarter, an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three (3) months and shall detail all real estate appraisal activities he has conducted during the previous three (3) month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate;
 - i. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this period of review within the twenty (20) days of notice of any such request;
- b. Within six (6) months of the effective date of this order, Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within six (6) months of the effective date of this order, 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;
- c. Attend and complete a minimum, seven (7) classroom-hour "Staying out of Trouble" course (sometimes this course is offered as two separate 3.5 hour courses, one entitled Staying Out of Trouble in Your Appraisal Practice and the other entitled Quality Assurance);
 - i. No examination shall be required for the seven (7) classroom-hour course;
- d. Pay to the Board an administrative penalty of One Thousand Five Hundred Dollars (\$1,500.00), within twenty (20) days of the effective date of this order;
- e. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- f. 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.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE (12) 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. Respondent is solely

responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY (20) DAYS** of the date of this Agreed Final Order.

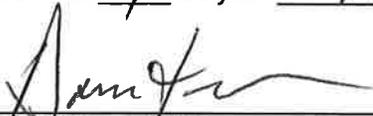
FAILURE TO COMPLY WITH ANY OF THE TERMS REQUIRED BY THIS AGREED FINAL ORDER WITHIN THE TIME ALLOTTED shall result in **IMMEDIATE REVOCATION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the required terms of this Agreed Final Order.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHIS ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, 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 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 9 day of April, 2012.



DOUGLAS FELSKÉ

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9th day of April, 2012, by DOUGLAS FELSKÉ, to certify which, witness my hand and official seal.



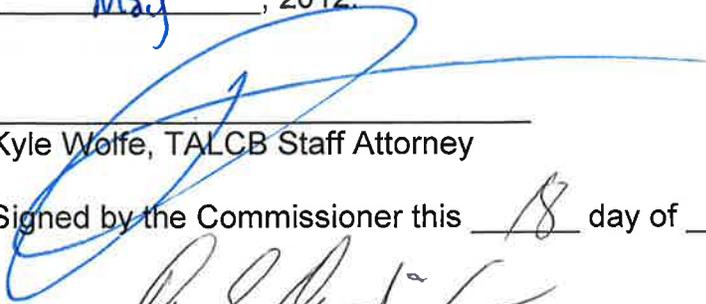
Notary Public Signature

Ina Chastain

Notary Public's Printed Name

Expires 3/19/2015

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



Kyle Wolfe, TALCB Staff Attorney

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



Douglas E. 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