

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO. 08-012

KEVIN FANCHER GIBBONS  
TX-1334807-R

**AGREED FINAL ORDER**

On this the 8<sup>TH</sup> day of MAY, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Kevin Fancher Gibbons (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 Kevin Fancher Gibbons is a Texas state certified residential real estate appraiser, holds certification number TX-1334807-R, and has been certified by the Board during all times material to the above-noted complaint case.
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 August 27<sup>th</sup>, 2007, Respondent appraised real property located at 4321 Rambling Creek Drive, Arlington, TX 76016 ("the property").
4. On or about September 12<sup>th</sup>, 2007, the Complainants, Robert and Julia Bondurant, filed a complaint with the Board. The complaint claimed that the Respondent produced an appraisal report on the property that contained various inaccuracies and deficiencies.
5. On or about October 15<sup>th</sup>, 2007 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 complaint. Respondent's response to the complaint was received.
6. 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) Respondent produced a misleading appraisal report by certifying that he had personally inspected the property when he had not done so and by failing to disclose and misrepresenting whether he had the assistance of a trainee in the conduct of the appraisal assignment;

7. Respondent made material misrepresentations and omissions of material facts 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 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule; USPAP Standards Rules: 2-1(a); 2-2(b)(vii); and, 2-3.

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

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

- a. Have his certification suspended for twelve months with that suspension being fully probated under the condition that Respondent shall not sponsor any new trainees during this time period and comply with all other provisions of this Agreed Final Order;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Pay to the Board an administrative penalty of \$2,500.00; and,
- d. 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.

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.

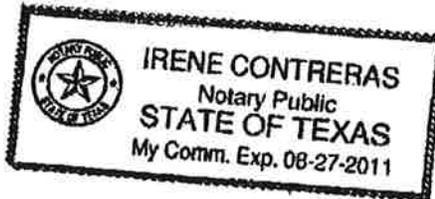
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 16 day of March, 2008.

K. J. Gibbons  
KEVIN FANCHER GIBBONS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 18<sup>th</sup> day of March, 2008, by KEVIN FANCHER GIBBONS, to certify which, witness my hand and official seal.

Irene Contreras  
Notary Public Signature



IRENE CONTRERAS  
Notary Public's Printed Name

Signed by the Commissioner this 29<sup>TH</sup> day of APRIL, 2008.

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

Approved by the Board and Signed this 8<sup>th</sup> day of MAY, 2008.

Larry Kokel  
Larry Kokel, Chairperson  
Texas Appraiser Licensing and Certification Board

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