

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MARY CATHERINE GIESBERG
TX-1324048-R

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DOCKETED COMPLAINT NO.
12-150

AGREED FINAL ORDER

On the 9th day of November, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Mary Catherine Giesberg (the "Respondent").

In order to conclude this matter, Mary Catherine Giesberg 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 Mary Catherine Giesberg is and was a Texas state certified residential real estate appraiser who held and currently holds certification number TX-1324048-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 9310 Saddle Lane, Houston, Texas 77080 ("the property") on or about April 26th, 2006.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter 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 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board. Respondent's response was received.
5. Respondent had an authorized appraiser trainee, Hollie Jacobs, who assisted her on this appraisal assignment. Ms. Jacobs did a substantial portion of the work on the appraisal report for the property, which Respondent then reviewed and signed.
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. Specifically, Respondent's USPAP violations with respect to the property include:

- (a) Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately, and failed to employ recognized methods and techniques in her sales comparison approach;
- (b) Respondent failed to disclose, analyze and reconcile the contract of sale for the property, including addressing \$76,5000 in gifted equity funds and \$7,000 sales concessions;
- (c) Respondent's report contains substantial errors of commission or omission as detailed above which impacted the credibility of the assignment results.

7. Respondent failed to provide adequate and diligent supervision of her appraiser trainee and did not take the steps necessary to review the market data, research and analysis that went into the appraisal report for the property.

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

CONCLUSIONS OF LAW

1. ~~The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.~~

2. Respondent violated USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards 1-4(a) & 2-2(b)(ix); 1-5(a) & 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)(13) by failing to actively, personally and diligently supervise her appraiser trainee.

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. Attend and complete a minimum 7 classroom hour course in review appraisals;
 - i. No examination shall be required for this course; and,

- b. 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 **SIX MONTHS** of the date of this Order (i.e. on or before May 17th, 2013) 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 six-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 licensure or certification. ***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER 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 suspension. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order and provides adequate documentation of same to the Board.

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. 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.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS OR AFFIDAVITS.

This agreement may be executed in one or more counterparts, in 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.

Signed this 9th day of November, 2012.

M. Catherine Giesberg
MARY CATHERINE GIESBERG

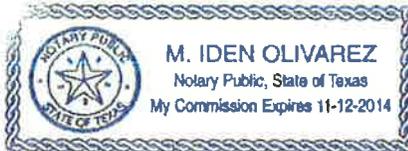
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TED WHITMER, ATTORNEY FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17 day of Aug, 2012, by MARY CATHERINE GIESBERG, to certify which, witness my hand and official seal.

M. Iden Olivarez
Notary Public Signature

M. Iden Olivarez
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 9th day of November, 2012.

Troy Beaulieu
Troy Beaulieu, TALCB Managing Attorney

Signed by the Commissioner this 9th day of November, 2012.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 9th day of November, 2012.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board