

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

BRAD K. HARRIS
TX-1323199-G

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DOCKETED COMPLAINT NO.
12-169 & 09-119

AGREED FINAL ORDER

On the 17th day of May, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Brad K. Harris (the "Respondent").

In order to conclude this matter, Respondent denies the truth of the Findings of Fact and Conclusions of Law contained herein but agrees to the disciplinary action set out in this Agreed Final Order in order to avoid the costs of litigation.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds license number, and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at:
 - a. 1824 Woodvine Drive, Houston, Texas 77056 ("the 1824 property");
 - b. 1828 Woodvine Drive, Houston, Texas 77056 ("the 1828 property");
 - c. 1830 Woodvine Drive, Houston, Texas 77056 ("the 1830 property"); and,
 - d. 1834 Woodvine Drive, Houston, Texas 77056 ("the 1834 property") (collectively, "the properties").
3. Thereafter two complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board, which he submitted to the Board.
5. 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 reports for the properties:

- a) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain work files containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provision;
- b) USPAP Scope of Work Rule; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results;
- c) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) & 2-2(b)(x) – Respondent failed to indicate that his hypothetical condition that the valuations were subject to completion of improvements per plans and specifications might have affected his assignment results, nor did his work files contain the plans and specifications he referenced;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately and misrepresented the lot size and the view from the properties and also failed to identify and report the improvement(s) description adequately. Respondent inconsistently reported the properties were new construction and also subject to completion and his photographs depict unfinished properties;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), misrepresented the one-unit housing price range, and failed to provide supporting documentation and a summary of his reasoning in support of these required analyses, conclusions and determinations which are necessary to reach a credible and reliable market value determination;
- f) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in his reports a brief summary of his rationale for his determination of the properties' highest and best use;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of site value determination, and did not provide supporting documentation or data for his determination, and no summary of his analysis and supporting rationale, for the site value determination;
- h) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide documentary support or the required analysis for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data, which revealed a lower price per square foot than Respondent used in his reports;
- i) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because he failed to provide written

analysis, documentary support for depreciation and did not calculate external obsolescence caused by the properties' adjoining various commercial properties;

- j) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Respondent has not provided supporting documentation nor his reasoning and a summary of his analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not discuss his analysis and reasoning behind the adjustments he made or elected not to make;
- k) USPAP Standards 1-5(a) & 2-2(b)(viii) ; 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to disclose, analyze and reconcile significant and material information regarding the properties' listing history, failed to disclose and analyze the contracts of sale and reconcile that information and data and failed to provide a summary of his supporting reasoning and analysis of all of this information and reconciliation;
- l) USPAP Standards 1-5(b) & 2-2(b)(viii); 1-1(b); 1-6(a) & 2-2(b) & 2-2(b)(viii) – Respondent made material misrepresentations and omitted material facts concerning a prior sale of the properties and failed to disclose, analyze and reconcile this significant and material information (including summarizing any reasoning supporting any analyses, opinions and conclusions he may have made and failing to provide work file documentation in support of any analyses, opinions and conclusions he may have made) within the 3 years prior to the effect date of each of the appraisal reports Respondent prepared for the properties;
- m) USPAP Standards 1-2(e) & 2-2(b)(viii) & 1-4(c)(iv) – Respondent did not retain a copy of the plans or specifications, upon which he predicated his assignment results and failed to indicate the probable time of completion, anticipated earnings, occupancy and anticipated competition at the time of completion, and,
- n) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced misleading appraisal reports for the properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in inflated appraisal reports that were not credible or reliable.

6. Respondent made material misrepresentations and omissions of material fact with respect to his appraisal of the property as detailed above.

7. The parties enter into this consent order ("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.
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. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1323199-G) is hereby **SUSPENDED** for a period of 12 months, **effective 5:00 p.m., CT on May 17th, 2013 and ending 5:00 p.m., CT on May 17th, 2014.**

1. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and,
2. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IT IS FURTHER ORDERED that Respondent pay an **administrative penalty** in the amount of **\$5,000** on or before **5:00 p.m. on Friday, June 7th, 2013**

Payment of the \$5,000 administrative penalty shall be made in 10, equal, monthly installment payments of \$500.00, which shall be timely and promptly submitted to the Board in accordance with the following payment scheduled:

- a. 1st payment due by: June 1st, 2013;
- b. 2nd payment due by: July 1st, 2013;
- c. 3rd payment due by: August 1st, 2013;
- d. 4th payment due by: September 1st, 2013;
- e. 5th payment due by: October 1st, 2013;
- f. 6th payment due by: November 1st, 2013;
- g. 7th payment due by: December 1st, 2013;
- h. 8th payment due by: January 1st, 2014;
- i. 9th payment due by: February 1st, 2014

j. 10th payment due by: March 1st, 2014

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

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, 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.

RESPONDENT IS SOLELY RESPONSIBLE FOR TIMELY DELIVERY TO THE BOARD OF ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE OF THIS AGREED FINAL ORDER. PAYMENT OF ANY ADMINISTRATIVE PENALTIES DUE MUST BE IN THE FORM OF A CASHIER'S CHECK OR MONEY ORDER MADE PAYABLE TO THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. RESPONDENT SHALL RETAIN DOCUMENTATION (REPLY EMAIL, FAX CONFIRMATION, RETURN RECEIPT, ETC.) CONFIRMING RECEIPT BY THE BOARD OF ALL THE NECESSARY DOCUMENTS.

RESPONDENT SHALL SEND ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE BY: (1) EMAIL TO COMPLIANCE.TALCB@TALCB.TEXAS.GOV, (2) FAX TO (512) 936-3966, ATTN: COMPLIANCE, OR (3) CERTIFIED MAIL RETURN RECEIPT REQUESTED TO STANDARDS & ENFORCEMENT SERVICES, TEXAS APPRAISER LICENSING & CERTIFICATION BOARD, STEPHEN F. AUSTIN BUILDING, 1700 N. CONGRESS AVE., SUITE 400, AUSTIN, TX 78701.

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 HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING 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.

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 1st day of March, 2013.

BRAD K. HARRIS
BRAD K. HARRIS

JASON RAY, ATTORNEY FOR
JASON RAY, ATTORNEY FOR
BRAD K. HARRIS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1st day of March, 2013, by BRAD K. HARRIS, to certify which, witness my hand and official seal.

Lisa Smith
Notary Public Signature



Notary without Bond

Lisa Smith
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 16th day of May, 2013.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 17 day of May, 2013.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17 day of May, 2013.



Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board