

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO. 11-100

SCOTT HEINEN
TX-1335493-R

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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 Scott Heinen (Respondent).

In order to conclude this matter Scott Heinen 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, Scott Heinen, is a certified residential real estate appraiser who currently holds and held certification number TX-1335493-R during all times material to the above-noted complaint case.
2. Respondent appraised 16525 East Bayside Way, Jamaica Beach, Texas ("the property") on or about May 5th, 2009.
3. On or about November 9th, 2010 a complaint was filed with the Board based on allegations that the Respondent had produced an appraisal report for the above-noted property that contained various USPAP violations.
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, 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 this complaint was received.
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 report for the property:

- a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;
 - b) Respondent failed to identify and report the site and improvement(s) description adequately;
 - c) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
 - d) Respondent failed to use an appropriate method or technique to determine site value and did not provide support for the site value determination, failed to collect, verify, analyze and reconcile the cost new of improvements, accrued depreciations, and generally failed to employ recognized methods and techniques in her cost approach;
 - e) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in his sales comparison approach;
 - f) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.
6. Respondent has made material misrepresentations and omitted 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 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 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 making material misrepresentations and omitting material facts.

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

- a. Have his certification suspended for twenty-four (24) months with this

suspension being partially probated under the following terms and conditions:

- i. During the first 30 days of the twenty-four month period Respondent shall be fully suspended and must refrain from conducting all real estate appraisal activities of any sort;
 - ii. After every six month period of the twenty-four month period, Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board. The log shall detail all real estate appraisal activities he has conducted for the previous six month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Such experience logs must be timely and promptly submitted on every six month anniversary of the effective date of this order (i.e. the date it is approved by the Board) during the entire 24 month probationary period;
 - iii. Upon request from the Board, Respondent shall timely and promptly provide copies of his appraisal reports and work files for any appraisal assignments identified on the experience log within the twenty (20) days of notice by the Board of any such request;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
 - c. Attend and complete a minimum, 7 classroom-hour course in the Cost Approach;
 - d. Attend and complete a minimum, 7 classroom-hour course in Valuation by Comparison;
 - i. No examination shall be required for this course;
 - e. Attend and complete a minimum, 7 classroom-hour course in Staying Out of Trouble;
 - i. No examination shall be required for this course;
 - f. Within 6 months of the effective date of this order, Respondent shall complete 15 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 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; and,

g. 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 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 licensure or certification. **Respondent is solely responsible for locating and scheduling classes 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.**

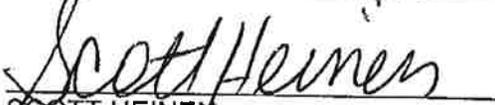
Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE REVOCATION of the Respondent's license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed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

ANY SUCH REVOCATION 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 PROCEDURES ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by first class mail or e-mail 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 11 day of April, 2012.


SCOTT HEINEN

T. Whitmer

TED WHITMER, ATTORNEY FOR
SCOTT HEINEN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 11th day of April, 2012, by SCOTT HEINEN, to certify which, witness my hand and official seal.

Charis L. Oliver
Notary Public Signature

CHARIS L. OLIVER
Notary Public's Printed Name



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

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

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

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17th day of May, 2012.

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