

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOSHUA DOUGLAS HOLDER
TX-1333954-R

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DOCKETED COMPLAINT NO.
08-064

AGREED FINAL ORDER

On this the 27th day of June, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Joshua Douglas Holder (Respondent).

In order to conclude this matter, Joshua Douglas Holder 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 Joshua Douglas Holder is a Texas state certified residential real estate appraiser, holds certification number TX-1333954-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about February and March, 2005, Respondent appraised real property located at:
 - i. 3415 Orchid Lane, Rowlett, Texas 75089 ("the Orchid property");
 - ii. 1218 Preston Drive, Sherman, Texas 75092 ("the Preston property"); and,
 - iii. 2209 Post Oak Drive, Sherman, Texas 75092 ("the Post property") (collectively "the properties").
3. On or about December 17th, 2007, the Complainant, Jeff Strawmyer, filed a staff-initiated complaint with the Board. The complaint alleged that the appraisal reports for the properties contained various violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. On or about December 18th, 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.

5. 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 reports for the properties.

- a) Respondent communicated misleading appraisal reports for the properties that contained significant material misrepresentations and omissions of material facts;
- b) Respondent violated the confidentiality provisions of USPAP's Ethics Rule;
- c) Respondent violated the record keeping provisions of USPAP's Ethics Rule;
- d) Respondent violated the provisions of USPAP's Competency Rule;
- e) Respondent failed to identify and report the site description adequately in his Post and Preston property appraisal reports;
- f) Respondent failed to identify and report the improvements description adequately in his Post and Preston property appraisal reports;
- g) Respondent has failed to identify and analyze the effect on use and value of existing economic supply and demand and market area trends;
- h) Respondent did not provide a summary of his reasoning behind his highest and best use determination for the properties being appraised;
- i) Respondent used inappropriate methods or techniques in his cost approach analysis, including failing to provide any support for his site value, cost new of improvements, or depreciations conclusions in either his report or work file;
- j) Respondent failed to analyze and reconcile sales comparison data properly, failed to select appropriate comparable sales that were available in the immediate neighborhood, did not report and make appropriate adjustments for things such as seller concessions, age, view, amenities, quality of construction, condition, and generally used improper methods and techniques;
- k) Respondent failed to collect, verify, analyze and reconcile comparable rental data and / or the potential earnings capacity to estimate gross income potential, did not base projections of future rent or income potential and expenses on reasonable, clear and appropriate evidence and generally did not employ recognized methods and techniques in the income approach for his Post and Preston property appraisal reports. Respondent also failed to collect, verify, analyze and reconcile comparable operating expenses for the Preston property;
- l) Respondent failed to analyze the agreement of sale for the properties;

- m) Respondent's reports for the properties contained substantial errors of commission or omission with respect to the sales comparison approach, cost approach, and income approach as noted 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; USPAP Competency Rule; USPAP Standards Rules: 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(ix); 1-4(c)(ii) & 2-2(b)(ix); 1-4(c)(iv) & 2-2(b)(ix) 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); 2-1(a), and 2-1(b).
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:

1. Have his certification revoked for thirty-six months with this revocation being fully probated under the following conditions:
 - i. During the entire thirty-six month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three 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. 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 his period of probation within twenty days of notice of any such request;
 - ii. Respondent shall sponsor no appraiser trainees during the period of his probated revocation;
 - iii. Respondent shall timely remit all installment payments of the administrative penalty, and timely complete all of the remedial coursework required in this Order;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;

3. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
4. Attend and complete a minimum, 15 classroom-hour course in the Income Approach;
5. Attend and complete a minimum, 15 classroom-hour course in Residential Sales Comparison or Residential Case Studies;
6. Attend and complete a minimum, 3 classroom-hour course in fraud;
 - i. No examination shall be required for this course;
7. Pay to the Board an administrative penalty of \$2,000.00;
 - i. Payment of the administrative penalty shall be made in twenty equal, \$100.00 installments, with the first payment being due on or before August 1st, 2008 and the remaining payments being due each month thereafter until paid in full;
8. Respondent shall submit to a reexamination for his certification, receive a passing grade on such reexamination and submit documentation of successful completion of the reexamination within 12 months of the effective date of this order; and,
9. 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. 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.

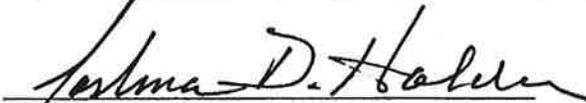
Payment of the **ADMINISTRATIVE PENALTY** must be tendered in accordance with the provisions of this Agreed Final Order.

Failure to timely 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 as provided for by TEX. OCC. CODE § 1103.518, including, but not limited to possible revocation of the above-noted probation.

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 10th day of JUNE, 2008.


JOSHUA DOUGLAS HOLDER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 10th day of June, 2008, by JOSHUA DOUGLAS HOLDER, to certify which, witness my hand and official seal.


Notary Public Signature

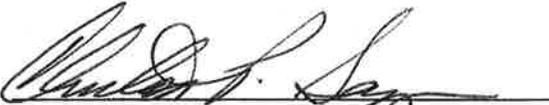


Tisha Munguia
Notary Public's Printed Name

Signed by the Commissioner this 27th day of June, 2008.


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

Approved by the Board and Signed this 27th day of JUNE, 2008.


Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board