

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BARRY WILLIAM JOHNSON  
TX-1332156-R

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DOCKETED COMPLAINT NO.  
09-158 & 10-078

**AGREED FINAL ORDER**

On this the 26<sup>12</sup> day of January<sup>Feb</sup>, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Barry William Johnson (Respondent).

In order to conclude this matter Barry William Johnson 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. 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 Barry William Johnson is a Texas state certified residential real estate appraiser, holds certification number TX-1332156-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised 11634 Versailles Lakes Lane, Houston, Texas 77082 ("the Versailles property") on or about September 6<sup>th</sup>, 2006.
3. Respondent appraised 11944 Chanteloup Drive, Houston, Texas 77047 ("the Chanteloup property") on or about June 24<sup>th</sup>, 2008.
4. Thereafter complaints relating to each of these real estate appraisal reports were filed with the Board. The complaints alleged that Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice in his completion of these reports.
5. After receipt of each complaint, 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 complaints. Respondent's responses were received.
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 Chanteloup property:

- a) Respondent violated the Ethics Rule (record keeping provisions) because he failed to maintain a work file as required by the record keeping provisions;
- b) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, and market area trends;
- c) Respondent did not provide a summary of his supporting reasoning behind his highest and best use determination;
- d) Respondent did not use appropriate methods and techniques to develop his site value determination, has not collected, verified, analyzed and reconciled the cost new of improvements and accrued depreciations and has generally failed to employ recognized methods and techniques in his cost approach;
- e) Respondent failed to analyze and reconcile sales comparison data properly and generally used improper methods and techniques correctly in his sales comparison approach;
- f) Respondent failed to analyze and report the previous sale of the property which occurred on or about May 22<sup>nd</sup>, 2008; and,
- g) Respondent's report contained substantial errors of commission or omission which resulted in a misleading and unreliable appraisal report.

7. 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 Versailles property:

- a) Respondent violated the Ethics Rule (record keeping provisions) because he failed to maintain a work file as required by the record keeping provisions;
- b) Respondent failed to identify and report the property's improvements' description adequately;
- h) Respondent did not use appropriate methods and techniques to develop his site value determination, has not collected, verified, analyzed and reconciled the cost new of improvements and accrued depreciations and has generally failed to employ recognized methods and techniques in his cost approach;
- i) Respondent failed to analyze and reconcile sales comparison data properly and generally used improper methods and techniques correctly in his sales comparison approach;

- c) Respondent's report contained substantial errors of commission or omission as detailed above, all of which resulted in a misleading and unreliable appraisal report.
8. Respondent omitted material facts and made material misrepresentations in both appraisal reports 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 provisions); USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(v)(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); 1-5(b) & 2-2(b)(viii); 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 the Respondent shall:

- a. Have his certification probated for eighteen months with this suspension being fully probated under the following conditions:
  - i. During the entire probated, eighteen month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and 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 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 this period of probation within the twenty days of notice of any such request;
  - ii. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;

- d. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
- e. Attend and complete a minimum, 7 classroom-hour course in Appraising the Tough Ones or Valuation by Comparison: Residential Analysis and Logic
  - i. No examination shall be required for this course;
- f. Pay to the Board a \$1,000.00 administrative penalty;
- 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 certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date 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 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 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 26 day of January, 2010.

Barry Johnson  
BARRY WILLIAM JOHNSON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 26 day of Jan, 2010, by BARRY WILLIAM JOHNSON, to certify which, witness my hand and official seal.

S. Goicochea  
Notary Public Signature



Sara Goicochea  
Notary Public's Printed Name

Signed by the Commissioner this 12 day of Feb, 2010.

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

Approved by the Board and Signed this 12 day of Feb, 2010.

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