

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD ("BOARD")

V.

KRISTI KELLEY  
TX-1334710-R

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE TEXAS  
APPRAISER LICENSING AND  
CERTIFICATION BOARD

DOCKET NO.  
329-12-3413.ALC

**FINAL ORDER**

On this 18th day of May, 2012, the Board considered the above-styled case.

After proper notice was given, the above-styled case was heard by an Administrative Law Judge at the State Office of Administrative Hearings who made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law. This Proposal for Decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No exceptions or replies were filed to the Proposal for Decision.

The Board, after review and due consideration of the Proposal for Decision, attached as Exhibit A hereto, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge contained in the Proposal for Decision and incorporates those Findings of Fact and Conclusions of Law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed Findings of Fact and Conclusions of Law submitted by any party that are not specifically adopted in this Final Order are denied.

IT IS THEREFORE ORDERED by the Texas Appraiser Licensing and Certification Board that the certification of Kristi Kelley is hereby **REVOKED**, effective twenty days after the date Kristi Kelley is notified of this Final Order.

IT IS FURTHER ORDERED that Kristi Kelley is assessed an administrative penalty of \$1,500.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this Final Order shall then become effective upon a final determination by said court or appellate court in favor of the Board.

Approved by the Board and signed this 18 day of May, 2012.

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

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

RECEIVED

MAR 08 2012

Texas Real Estate Commis

March 7, 2012

Douglas E. Oldmixon  
Administrator  
Texas Appraiser Licensing and Certification Board  
1700 N. Congress Avenue, Suite 400  
Austin, TX 78701

INTER-AGENCY

**RE: Docket No. 329-12-3413.ALC; Texas Appraiser Licensing and Certification Board v. Kristi Kelley**

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Henry D. Card".

Henry D. Card  
Administrative Law Judge

HDC/ap  
Enclosure

xc: Kristi Kelley, 1111 Breckonridge Circle, Pearland, TX 77581 - VIA REGULAR MAIL  
Troy Beaulieu, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 - (with 1 hearing CD;  
Certified Evidentiary Record) - VIA-INTER-AGENCY

300 W. 15<sup>th</sup> Street, Suite 502, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025  
512.475.4993 (Main) 512.475.3445 (Docketing) 512.322.2061 (Fax)  
[www.soah.state.tx.us](http://www.soah.state.tx.us)

**SOAH DOCKET NO. 329-12-3413.ALC**

**TEXAS APPRAISER LICENSING AND  
CERTIFICATION BOARD,  
Petitioner**

§  
§  
§  
§  
§  
§  
§  
§  
§

**BEFORE THE STATE OFFICE**

**V.**

**KRISTI KELLEY,  
Respondent**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB) seeks revocation of the real estate appraiser certification held by Kristi Kelley (Respondent) and assessment of an administrative penalty. Staff alleges that Respondent violated the Texas Appraiser Licensing and Certification Act and TALCB's rules by failing to respond to Staff's inquiry and request for documents related to a complaint. Respondent did not respond to Staff's notice of hearing and did not appear at the hearing. The Administrative Law Judge (ALJ) concludes this matter should proceed on a default basis, that the allegations in the notice of hearing are deemed admitted, that Respondent violated TALCB's rules, and that Respondent's certification should be revoked and she should be assessed an administrative penalty of \$1,500.00, as requested by Staff.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

TALCB and the State Office of Administrative Hearings (SOAH) have jurisdiction over this matter, as set out in the Conclusions of Law.

On December 16, 2011, Staff sent notice of the hearing in this matter to Respondent's most recent address as shown in TALCB's records, in accordance with 22 Texas Administrative Code § 157.9. The notice was sent more than ten days before the hearing, as required by Texas Government Code § 2001.051. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a

reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted, as required by Texas Government Code § 2001.052.

The hearing was convened as scheduled before ALJ Henry D. Card on January 24, 2012, at SOAH's offices in Austin, Texas. Staff appeared at the hearing. Respondent did not. Staff offered evidence in the record to show jurisdiction, notice, and TALCB authorization and precedent for the proposed sanction. Staff moved to proceed on a default basis. That motion was taken under advisement. The hearing was adjourned and the record closed the same day, January 24, 2012.

## II. DISCUSSION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 Texas Administrative Code § 155.501, TALCB's motion for default is granted. The ALJ recommends that Respondent's state real estate appraiser certification be revoked and that she be assessed an administrative penalty of \$1,500.00, as recommended by Staff.

## III. FINDINGS OF FACT

1. Respondent, Kristi Kelley, is a state-certified real estate appraiser who currently holds certification number TX-1334710-R and held that license during all times material to the conduct alleged by the Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB).
2. Respondent's address, as provided to TALCB, is 1111 Breckonridge Circle, Pearland, Texas 77581.
3. On December 16, 2011, Staff sent notice of the hearing in this matter to Respondent's address of record with TALCB.
4. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

5. The notice included a disclosure, in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice could be granted by default, if Respondent failed to appear at the hearing.
6. The notice included an Original Statement of Charges, which contained the following factual allegations:

After receiving a complaint against Respondent, Petitioner notified Respondent of the complaint at her address of record with TALCB and provided Respondent with the opportunity to respond to the allegations and requested that Respondent provide certain documentation to Petitioner.

Despite initial notices (sent on June 21, 2011, July 22, 2011, and August 9, 2011), email communications (held on August 5, 2011 and October 6, 2011), and a follow-up, reminder notice requesting the documentation (sent on October 6, 2011), the requested material was never received from Respondent. As of the filing of this Statement of Charges, despite written communication advising Respondent of her obligations under the Act and TALCB rules, Respondent has failed to provide the requested documentation.

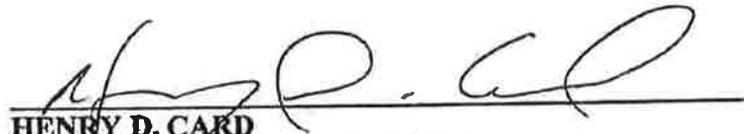
7. Respondent has failed to provide the requested documentation.
8. The hearing was convened as scheduled before Administrative Law Judge (ALJ) Henry D. Card on January 24, 2012, at the State Office of Administrative Hearings' (SOAH's) offices in Austin, Texas. Staff appeared at the hearing. Respondent did not. The hearing was adjourned and the record closed the same day, January 24, 2012.

#### IV. CONCLUSIONS OF LAW

1. TALCB has jurisdiction over this matter pursuant to Texas Occupations Code §§ 1103.451-1103.552.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Occupations Code §§ 1103.508 and 1103.518 and Texas Government Code ch. 2003.
3. Pursuant to 22 Texas Administrative Code § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice to Respondent's most recent address as shown by the records of the Board.
4. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052, 22 Texas Administrative Code § 157.9, and SOAH's default rule, 1 Texas Administrative Code § 155.501.

5. The factual allegations set out in the notice of hearing are deemed admitted, pursuant to 1 Texas Administrative Code § 155.501.
6. Respondent violated 22 Texas Administrative Code §§ 153.20(a)(1), 153.20(a)(24), and 153.24(6).
7. Respondent's license should be revoked and she should be assessed an administrative penalty of \$1,500.00, pursuant to 22 Texas Administrative Code §§ 153.20(a)(1) and 153.24(9).

**SIGNED March 7, 2012.**



**HENRY D. CARD**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**