

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD ("BOARD")

V.

WENDY ANNETTE KIRBY
TX-1334431-R

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BEFORE THE TEXAS
APPRAISER LICENSING AND
CERTIFICATION BOARD

DOCKET NO.
329-12-3147.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 Wendy Annette Kirby is hereby **REVOKED**, effective twenty days after the date Wendy Annette Kirby is notified of this Final Order.

IT IS FURTHER ORDERED that Wendy Annette Kirby 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

February 24, 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. 329-12-3147.ALC; Texas Appraiser Licensing and Certification Board v. Wendy Annette Kirby, TX-1334431-R

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 that may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy K. L. Harvel".

Wendy K. L. Harvel
Administrative Law Judge

WKLH/l
Enclosure

xc: Kyle Wolfe, Staff Attorney, Texas Appraiser Licensing & Certification Board, 1700 N. Congress Ave., Suite 400, Austin, TX – **VIA INTER-AGENCY**
Wendy Annette Kirby, 807 Ard Road, Seagoville, TX 75159 - **VIA REGULAR MAIL**
Troy Beaulieu, Texas Appraiser Licensing & Certification Board, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 – (with 1 - hearing CD; Certified Evidentiary Record) - **VIA-INTER-AGENCY**

SOAH DOCKET NO. 329-12-3147.ALC

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD,

Petitioner

V.

WENDY ANNETTE KIRBY

TX-1334431-R,

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The above-styled matter was scheduled for hearing at the request of the Texas Appraiser Licensing and Certification Board (the referring agency). Despite being sent proper notice, the Respondent did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge (ALJ) finds that the relief requested by the referring agency should be granted on a default basis.

FINDINGS OF FACT

1. Notice of the hearing was mailed to the Respondent at the Respondent's address of record at least ten days prior to the scheduled hearing.
2. The notice of hearing 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.
3. The notice of hearing contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.
4. The hearing was held and the record closed on February 15, 2012.
5. The Respondent did not appear at the scheduled hearing and was not represented at the hearing and failed to demonstrate good cause for her failure to appear.

6. The referring agency's staff moved for a default, which was granted.
7. The factual allegations set out in the notice of hearing are deemed admitted and are incorporated by reference into this Finding of Fact.

CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't. Code ch. 2003.
2. The referring agency has jurisdiction over this matter. Tex. Occ. Code Ch. 1103.
3. Proper and timely notice was provided to the Respondent in accordance with Tex. Gov't. Code ch. 2001 and 1 Tex. Admin. Code ch. 155.
4. The allegations in the notice of hearing were properly deemed admitted pursuant to 1 Tex. Admin. Code § 155.501.
5. The referring agency staff has established the basis for the sanction alleged in the notice of hearing, which is incorporated into the Conclusion of Law.
6. The referring agency is entitled to the relief requested in its notice of hearing.

SIGNED February 24, 2012.


WENDY K. L. HARVEL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS