

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MICHAEL W. LANGER
TX-1333611-L

§
§
§
§
§
§
§
§

COMPLAINT 14-036
APPLICATION 13-318

AGREED FINAL ORDER

On the 9 day of May, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the license of Michael W. Langer and the matter of the application for certification of Michael W. Langer (the "Respondent").

In order to conclude this matter, Michael W. Langer neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the 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 is a Texas state licensed residential real estate appraiser who holds license number TX-1333611-L and was licensed by the Board during all times material to the above-noted complain and application.
2. Respondent appraised residential real property located at 18738 Trail Bend Lane, Houston, Texas and (the "Houston property") on or about September 18th, 2013 and residential real property located at 5315 Riverstone Crossing Dr., Sugar land, Texas (the "Sugarland property") on March 26th, 2012 (collectively, the "properties")
3. Respondent has also filed an application for certification with the Board.
4. Respondent's application was selected for audit in accordance with state and federal legal requirements. Respondent's appraisals of the properties were reviewed during the audit.
5. Upon review of the experience component of Respondent's application, concerns regarding whether her experience was performed in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP") were evaluated.
6. Respondent's application was denied by letter dated October 3rd, 2013, after which he appealed in writing.
7. The denial of Respondent's application was based upon violations of TEX. OCC. CODE §§ 1103.202(3) 1103.405 and 22 TEX. ADMIN. CODE §§ 153.15(e) and (g) and

153.20(a)(6) and 155.1(a), which all relate to USPAP deficiencies in his submitted experience.

8. Thereafter, a staff-initiated complaint was filed with the Board. The Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which he did.

9. Petitioner and Respondent have reached agreement on resolution of his application denial matter, as well as this pending complaint matter. The parties agree that Respondent shall be issued a probationary residential certification under the terms and conditions outlined in this order. This order shall fully resolve both the complaint and application matters by means of this order in accordance with TEX. OCC. CODE § 1103.458.

10. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") in his appraisals of both of the properties:

- a. USPAP Ethics Rule – Respondent failed to disclose whether he performed services regarding the properties within the three year period immediately preceding acceptance of the assignment;
- b. USPAP Record Keeping Rule – Respondent failed to maintain a work file that contained the documentation necessary to support his analyses, opinions and conclusions;
- c. USPAP Standard 1-2(b) & 2-2(b)(ii) – Respondent failed to identify the intended use of the appraiser's opinions and conclusions;
- d. USPAP Standard 1-2(e)(ii) & 2-2(b)(iv) – Respondent failed to identify the real property interest to be appraised;
- e. USPAP Standard 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site and improvement(s) description adequately;
- f. USPAP Standard 1-2(e)(iii), 1-4(g) & 2-2(b)(viii) – Respondent failed to identify and consider the effect on value of personal property included in the appraisals for the properties;
- g. USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to report correctly whether the properties were zoned;
- h. USPAP Standards 1-3(a) & 2-2(viii); 1-3(b) & 2-2(ix) – Respondent did not identify and analyze the effect on use and value of existing land use regulations, economic

supply and demand, and market area trends. Respondent also did not provide supportive reasoning for his determination of the properties' highest and best use;

- i. USPAP Standard 1-1(a) & 1-4(b); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(viii) & 2-2(b)(viii) – Respondent failed to employ recognized methods and techniques in his cost approach and did not provide any supporting documentation or his supporting rationale for his determine of the cost new of the improvements and depreciation he used in his appraisal;
- j. USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach for the appraisals of both properties;
- k. USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to analyze and report listings and options regarding the properties which existed as of the effective date of his appraisals; and,
- l. USPAP Standards 1-1(a), 1-1(b), 1-1(c); and, 2-1(a) – For the reasons detailed above, Respondent produced appraisals for the properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in appraisals that were not credible or reliable.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

ORDER

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

1. **PROBATIONARY CERTIFICATION.** Upon timely completion of all terms of this order, be issued a state certification as a residential real estate appraiser on a probationary basis as prescribed by TEX. OCC. CODE § 1103.2091 and 22 TEX. ADMIN. CODE § 153.20(k)-(m), under the conditions outlined in this order. The probationary period shall remain in effect for the first twelve month period Respondent is certified;

2. **EDUCATION.** On or before September 8th, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the 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 this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum 7 classroom hour course in analyzing and supporting adjustments in the Sales Comparison Approach; and,
 - B. A minimum 7 classroom hour course in Highest and Best Use and Market Analysis;

3. **MENTORSHIP.** On or before September 8th, 2014, Respondent shall complete 16 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for the mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 16 hours of mentorship shall include:
 - A. 4 hours of mentorship in the sales comparison approach
 - B. 4 hours of mentorship in in analysis and support for adjustments in the sales comparison approach;
 - C. 1 hour of mentorship in the proper use or exclusion of approaches to value;
 - D. 2 hours of mentorship in listing history analysis;
 - E. 1 hour of mentorship in property description;
 - F. 2 hours of mentorship in highest and best use and market data analysis;
 - G. 2 hours of mentorship in residential report writing and work file documentation obligations;

4. **LOGS.** On or before December 15th, 2014, shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of September 9th, 2014 to December 8th, 2014. The log shall detail *all* real estate appraisal activities Respondent has conducted during that 90-day period. This log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments Respondent performs during the course of this period within twenty days of receiving any such request. Staff shall then audit a sample of no more than 3 new reports and corresponding work files from this experience log. Respondent's audited work product must meet general USPAP compliance in order to satisfy the audit;
5. **TRAINEES.** Respondent shall not sponsor any appraiser trainees during the 1 year probationary certification period.
6. **DISCLOSURE OF PROBATIONARY STATUS REQUIRED.** Respondent shall comply with the requirements of TEX. OCC. CODE § 1103.2091 regarding disclosure of the probationary nature of his certification to those he performs appraisal activity for.
7. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
8. 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.

ACKNOWLEDGMENT AND WAIVER

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION 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 PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, 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 website.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, OR FAILURE TO PROVIDE LOGS).

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: compliance.talcb@talcb.texas.gov; (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

EXECUTION

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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 28th day of April, 2014.

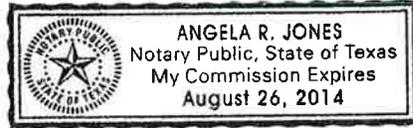


MICHAEL W. LANGER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of April, 2014, by MICHAEL W. LANGER, to certify which, witness my hand and official seal.


Notary Public Signature

Angela R. Jones
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 29TH day of APRIL, 2014.



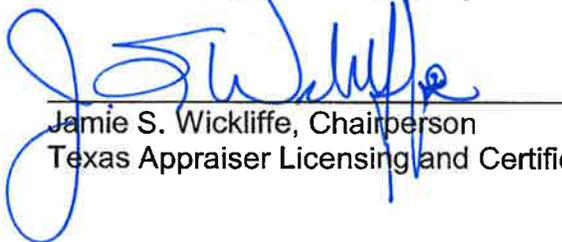
Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 9 day of May, 2014.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 9 day of May, 2014.



Jamie S. Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board