

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DWAYNE LEMMON
TX-1322842-G

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DOCKETED COMPLAINT NO.
08-002

AGREED FINAL ORDER

On this the 11 day of Dec, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Dwayne Lemmon (Respondent).

In order to conclude this matter, Dwayne Lemmon 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 Dwayne Lemmon is a Texas state certified general real estate appraiser, holds certification number TX-1322842-G, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about August 23rd, 2007, the Respondent appraised real property located at: 1201 S. Line Street, Jefferson, Texas 75657 ("the property").
3. On or about September 6th, 2007, the Complainant, Rainbow Lau, filed a complaint with the Board, which was based upon the appraisal report by Respondent, did not conform to the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. On or about October 3rd, 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 Respondent's appraisal for the property.
 - a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;

- b) Respondent failed to identify and determine and perform the scope of work necessary to develop credible assignment results;
- c) Respondent failed to identify the intended use of his opinions and conclusions;
- d) Respondent failed to clearly and accurately report any extraordinary assumption affecting his analysis, opinions and conclusions;
- e) Respondent failed to identify and report adequately the improvement(s) description;
- f) Respondent failed to identify and analyze the effect on use and value of economic supply and demand or market area trends;
- g) Respondent failed to provide his supporting rationale and reasoning for his determination of the property's highest and best use;
- h) Respondent failed to provide any supporting analysis or data for his site value determination, cost new of improvements and reconciled depreciation(s) and failed to employ recognized methods and techniques correctly in his cost approach;
- i) Respondent failed to employ recognized methods and techniques correctly in his sales comparison approach correctly;
- j) Respondent failed to analyze the agreement of sale; and,
- k) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

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, 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Scope of Work Rule; USPAP Standards Rules: 1-2(h); 1-29b) & 2-2(b)(ii); 1-2(f) or 1-2(g) & 2-1(c); 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(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-1(a) & 1-4(a); 1-5(a) & 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 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 suspended for twelve months with this suspension being fully probated under the following conditions:
 - i. During the entire twelve month suspension 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 timely remit payment of the administrative penalty, and timely complete all of the remedial coursework required in this Order;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in Cost Approach;
- d. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing;
- e. Pay to the Board an administrative penalty of \$1,500.00, the payment of \$1,500.00 of which shall be fully probated under the condition that Respondent fully comply with all the terms of this Agreed Final Order; and,
- f. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

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.

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.

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 and the imposition of a suspension or revocation.

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 17 day of November, 2009.



DWAYNE LEMMON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17 day of November, 2009, by DWAYNE LEMMON, to certify which, witness my hand and official seal.



Notary Public Signature



Kristi Lynn Brown

Notary Public's Printed Name

Signed by the Commissioner this 11 day of Dec, 2009.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 11 day of Dec, 2009.



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