

APR 08 2009

CASHIER'S SECTION
OPERATOR 8

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

BRIAN R. LOFTIN
TX-1331946-T

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DOCKETED COMPLAINT NO.
08-061

AGREED FINAL ORDER

On this the 24th day of April, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the authorization of Brian R. Loftin, (Respondent).

In order to conclude this matter, Brian R. Loftin 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 Brian R. Loftin was a Texas authorized appraiser trainee, previously held authorization number TX-1331946-T, and was authorized by the Board during all times material to the above-noted complaint case.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Since the time of this complaint, Respondent's authorization as a real estate appraiser trainee has expired and Respondent no longer desires to hold a license, certification, authorization or registration from the Board. Respondent acknowledges that his authorization has lapsed and he is hereby agreeing not to seek renewal of the authorization, nor to apply for any authorization, license, certification or registration with the Board in the future.
4. On or about January 10th, 2006 Respondent appraised real property located at 325 East X Street, Deer Park, Texas 77536 ("the property) for the client, South Shore Financial.
5. On or about December 10th, 2007, the Complainant, Russell G. Loftin, filed a complaint with the Board. The Complainant asserted that the Respondent had

produced an appraisal report for the property by affixing Russell G. Loftin's signature to the appraisal report without his consent, authorization or knowledge.

6. The Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 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.

7. Respondent violated 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 property:

a. Respondent communicated a misleading appraisal report for the property by indicating that Russell G. Loftin had prepared and signed the appraisal report when he had not.

8. Respondent made material misrepresentations in the appraisal report on the property by producing a report which affirmatively indicated Russell G. Loftin had prepared and signed the appraisal report when he had not.

9. By this same conduct Respondent has also misused or misrepresented the type of classification or category of licensure, certification, approval or registration, or the license, certification, approval, or registration number.

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 USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP's Ethics Rule and USPAP Standards Rules: 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations.
4. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(18).

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

1. Shall not seek renewal of his authorization, nor apply to the Board for any authorization, license, certification or registration in the future.

Failure to 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.

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 6th day of April, 2009.


BRIAN R. LOFTIN

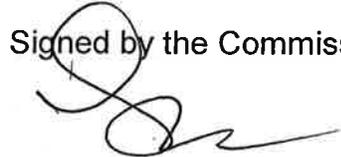
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 6th day of April, 2009, by BRIAN R. LOFTIN, to certify which, witness my hand and official seal.


Notary Public Signature

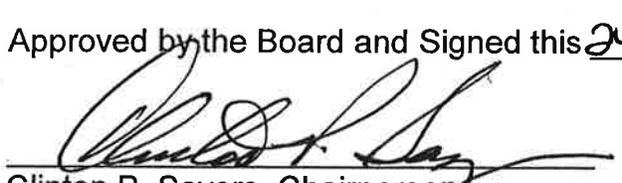
Andrea Kirkpatrick
Notary Public's Printed Name



Signed by the Commissioner this 24th day of April, 2009.


Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 24th day of April, 2009.


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