

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JENNIFER LOIS LOWRY
TX-1323924-R

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DOCKETED COMPLAINT NO.
05-100

AGREED FINAL ORDER

On this the 10th day of August, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Jennifer Lois Lowry, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Jennifer Lois Lowry is a state certified residential real estate appraiser, holds certification number TX-1323924-R, and has been certified by the Board since October 16th, 1992.

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. On or about the month of March 2005 the Respondent appraised the property located at 7818 Chasefield Drive, Missouri City, Fort Bend County, Texas ("the Chasefield property"), for the client, Market America Mortgage.

4. The Complainant, Hugo Galantini of Market America Mortgage, complained to the Board alleging that the Respondent had omitted material information or misrepresented material information in connection with the appraisal of the Chasefield property.

5. On or about April 27th, 2005, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature of the complaint and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response was received.

6. The Enforcement Division has concluded that the Respondent's appraisal report violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a. USPAP Standard 2-2(b) – Respondent failed to state the report option she used;
- b. USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent failed to provide a source for her definition of value;
- c. USPAP Standards 1-2(g) or (h), 2-1(c) & 2-2(b)(vii) – Respondent failed to disclose any extraordinary assumptions or limiting conditions affecting her analysis, opinions and conclusions;
- d. USPAP Standards 1-2(e)(i) & 2-2(b)(ii) – Respondent failed to identify and report the improvements description adequately by failing to discuss the lack of HVAC in the 320 square foot addition included in her report;
- e. USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a summary statement of her rationale for her determination of the Chasefield property's highest and best use;
- f. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent failed to state her method of determining site value nor did she support her value determination with any lot sales data in her report or work file;
- g. USPAP Standards 1-4(b)(ii) & 2-2(b)(x) – Respondent failed to provide supporting documentation in her work file for her \$44 / square foot cost approach determination. Marshall and Swift's 2006 Cost Handbook indicates the appropriate price is \$64.24 / square foot;
- h. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations;
- i. USPAP Standards 1-1(a) & 1-4(b) – Respondent did not correctly employ recognized methods and techniques in her cost approach analysis;
- j. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent failed to report and analyze seller concessions with regard to the Chasefield property and some of the comparable sales used. Respondent failed to make appropriate adjustments to the comparable sales used;
- k. USPAP Standards 1-1(a) & 1-4(a) – Respondent did not use appropriate data and/or did not make adjustments appropriate to the data that were used;
- l. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to analyze the agreement of sale with respect to concessions;
- m. USPAP Standard 1-1(a) – For the reasons noted above, Respondent did not correctly employ recognized methods and techniques to produce a credible appraisal report;

- n. USPAP Standard 1-1(c) – Respondent rendered appraisal services that were careless or negligent;
- o. USPAP Standard 2-1(a) – Respondent did not set forth the appraisal in a manner that will not be misleading;
- p. USPAP Standard 2-1(b) – For the foregoing reasons, Respondent failed to provide sufficient information to enable the intended users of the appraisal to understand the report;

7. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.

8. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations or omissions of material fact in her report. These include failing to address the sales concessions detailed in the contract for sale; failing to disclose that the 320 square foot addition was not ducted for HVAC and misrepresenting the cost / square foot as \$44 when industry data sources indicate it was roughly 50% higher in cost per square foot.

CONCLUSIONS OF LAW

The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451–1103.5535 (Vernon 2005).

1. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 2-2(b); 1-2(c) & 2-2(b)(v); 1-2(g) or (h); 2-1(c) & 2-2(b)(vi); 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(c); 2-1(a); and, 2-1(b).

2. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations or omissions of material fact in her report.

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

- a) Pay an administrative penalty of \$500.00;
- b) Attend and complete a minimum, 15 classroom-hour course in USPAP;

- c) Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach, Market Data Analysis or Residential Case Studies;
- d) Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;
- e) 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 completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in the **IMMEDIATE SUSPENSION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

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 or online. 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 complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not paid the administrative penalty or not fulfilled the educational requirements of this Agreed Final Order within the timeframe provided by this Agreed Final Order.

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 shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the administrative penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

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 in the Board's newsletter and/or 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 29 day of May, 2007.

Jennifer Lois Lowry
JENNIFER LOIS LOWRY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 29 day of May, 2007, by JENNIFER LOIS LOWRY, to certify which, witness my hand and official seal.

Karen S Rume
Notary Public Signature
Karens Rume
Notary Public's Printed Name



Signed by the Commissioner this 4th day of June, 2007.

Wayne Thorburn
Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 10 day of
August, 2007.

Larry Kokel

Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board