

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO. 12-292

JOHN E. MAHER
TX-1338562-R

AGREED FINAL ORDER

On the 17th day of May, ²⁰¹³~~2012~~, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of John E. Maher (the "Respondent").

In order to conclude this matter, Respondent 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1338562-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about September 17, 2010, Respondent appraised real property located at: 2908 Patton Drive, Melissa, Texas 75454 ("the property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter 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.
5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.
6. Respondent violated TEX. OCC. CODE § 1103.405, 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) USPAP Ethics Rule -- Respondent violated the record keeping provisions of the Ethics Rule because he failed to maintain a work file containing all data, information, and documentation necessary to support his opinions and conclusions.

Respondent also failed to disclose any current/prospective interest and services regarding the subject property within the 3 year period immediately preceding acceptance of the assignment;

- b) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) - Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of similar nature;
- c) USPAP Standards 1-3(a) & 2-2(b)(viii) - Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
- d) USPAP Standards 1-3(b) & 2-2(b)(ix) - Respondent failed to develop an opinion of the highest and best use;
- e) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) - Respondent failed to collect, verify, analyze and reconcile the of new improvements, failed to use an appropriate method or technique to develop site value, failed to provide support in his report or work file for this determination and failed to employ recognized methods and techniques correctly in his cost approach;
- f) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) - Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data and failed to employ recognized methods and techniques correctly in his sales comparison approach;
- g) USPAP Standards 2-2(b)(viii) - Respondent failed to explain and support the exclusion of the income approach;
- h) USPAP Standards 1-5(a) & 2-2(b)(viii) - Respondent failed to analyze the agreement of sale for the subject as of the effective date of the appraisal and a copy of that contract was not contained in Respondent's work file; and,
- i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing t methods and techniques correctly. This resulted in an appraisal report that was not credible or reliable.

7. Respondent omitted material facts and made material misrepresentations in his appraisal report as detailed above.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter 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)(3).
3. Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(9).
4. 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 Respondent's Texas appraiser certification be suspended for a period of 6 months, effective **5:00 p.m., May 17th, 2013**.

IT IS FURTHER ORDERED that beginning at **5:00 p.m., May 17th, 2013**, the suspension is to be fully probated for 6 months ending **November 17th, 2013**, subject to the following terms and conditions:

1. **EDUCATION.** On or before **July 17th, 2013**. 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. **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 15 classroom-hour course in USPAP; and,
 - B. A minimum 7 classroom-hour course in the Sales Comparison Approach.
 - i. No examination shall be required for this course
2. **MENTORSHIP.** On or before **July 17th, 2013** Respondent shall complete **15 hours** of in-person mentorship conducted by a certified USPAP instructor approved by Board staff 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 each 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. **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.**

3. **LOGS.** On or before **October 11th, 2013**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of September 1st, 2013 to October 1st, 2013. The log shall detail **all** real estate appraisal activities Respondent has conducted during that one month 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 of probation within twenty days of receiving any such request;
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. RESPONDENT SHALL ALSO BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY. The Board will notify the Respondent in writing of the failure to comply, the immediate assessment of the administrative penalty and the immediate suspension of the license, certification, authorization or registration.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. RESPONDENT SHALL RETAIN DOCUMENTATION (REPLY EMAIL, FAX CONFIRMATION, RETURN RECEIPT, ETC.) CONFIRMING RECEIPT BY THE BOARD OF ALL THE NECESSARY DOCUMENTS.

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.

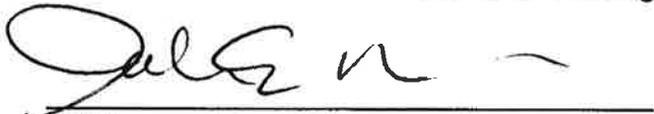
I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

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 28 day of March, 2013.



JOHN E. MAHER

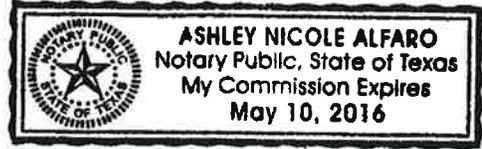


TED WHITMER, ATTORNEY FOR
JOHN E. MAHER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of March, 2013, by JOHN E. MAHER, to certify which, witness my hand and official seal.

Ashley Nicole Alfaro
Notary Public Signature

Ashley Nicole Alfaro
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 16th day of May, 2013.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 17 day of May, 2013.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17 day of May, 2013.

Walker Beard
Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board