

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

BRAD MALLET
TX-1333864-L

§
§
§
§
§
§
§
§

DOCKETED COMPLAINT NO. 10-026

AGREED FINAL ORDER

On this the ^{18th}~~26th~~ day of ^{MAY}~~April~~, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Brad Mallett (Respondent).

In order to conclude this matter Brad Mallett 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, Brad Mallett, is a state licensed real estate appraiser who currently holds and held certification number TX-1333864-L during all times material to the above-noted complaint cases.
2. Respondent appraised 103 E. Norwood Court, San Antonio, Texas ("the property") on or about April 16th, 2008.
3. On or about September 18th, 2009, Eric Wilford filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report for the property that contained various deficiencies that constitute gross negligence.
4. Thereafter, 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, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") in effect at the time of the appraisal report for the property:

- a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;
 - b) Respondent failed to become competent and did not disclose his lack of competence / experience in handling assignments of this nature;
 - c) Respondent failed to identify and develop an adequate scope of work necessary for credible assignment results;
 - d) Respondent failed to provide a definition of value and did not mention whether the estimate was in terms of cash or those equivalent to cash;
 - e) Respondent failed to report and disclose that his hypothetical condition regarding completion per plans might directly affect the analysis, opinions and conclusion contained in the report;
 - f) Respondent has failed to provide a brief summary of his supporting rationale for his determination of the property's highest and best use;
 - g) Respondent failed to explain and support his exclusion of the cost approach;
 - h) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in his sales comparison approach;
 - i) Respondent failed to explain and support his exclusion of the income approach in the property appraisal; and,
 - j) Respondent's appraisal report for the property contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the Dallas property.
6. Respondent has made material misrepresentations and omitted material facts as detailed above.

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 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping); USPAP Competency Rule; USPAP Scope of Work Rule; USPAP Standards: 1-2(h) & 2-2(b)(vii); 1-2(c) & 2-2(b)(v); 1-2(f) or 1-2(g) & 2-

1(c) & 2-2(b)(x); 1-3(b) & 2-2(b)(ix); 2-2(b)(viii); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 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 making material misrepresentations and omitting material facts.

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

- a. Have his certification suspended for eighteen (18) months, beginning on Friday, May 18th, 2012, with this suspension being fully probated under the following terms and conditions:
- i. At every six month period of the eighteen month period (i.e. November 19th, 2012, May 18th, 2013 and, November 19th, 2013), Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board. The log shall detail all real estate appraisal activities he has conducted for the previous six 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. Such experience logs must be timely and promptly submitted on every six month anniversary of the effective date of this order (i.e. on or before November 19th, 2012, May 18th, 2013, and November 19th, 2013) during the entire 18 month probationary period;
 - ii. Upon request from the Board, Respondent shall timely and promptly provide copies of his appraisal reports and work files for any appraisal assignments identified on the experience log within the twenty (20) days of notice by the Board of any such request;
- b. Attend and complete a minimum, 7 classroom-hour course in Staying Out of Trouble;
- i. No examination shall be required for this course;
- c. Attend and complete a minimum, 7 classroom-hour course in Highest and Best Use;
- d. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- e. Within 6 months of the effective date of this order (i.e. on or before November 19th, 2012) Respondent shall complete 15 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within 6 months of the effective date of this order (i.e. on or before November 19th, 2012), Respondent shall submit on a form

provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;

f. Respondent shall pay a \$500.00 administrative penalty, but this entire amount shall be probated under the condition that Respondent complete the required, 15 hours of mentorship and submit the corresponding mentorship affidavit noted above on or before July 17th, 2012. If the mentorship is not completed and the mentorship affidavit is not submitted on or before July 17th, 2012, then the \$500.00 administrative penalty is due in full and must be tendered on or before August 7th, 2012; and,

g. 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.

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 (i.e. on or before May 18th, 2013) 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 licensure or certification. ***Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.***

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order. Any such suspension shall remain in effect for the remainder of the 18-month suspension period indicated above.

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 PROCEDURES ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension by first class mail or e-mail to the last known address as provided to the Board.

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.

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.

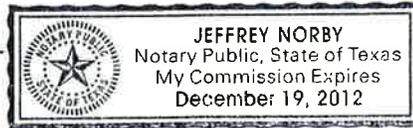
Signed this 26th day of April, 2012.

Brad Mallett

BRAD MALLETT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 26th day of April, 2012, by BRAD MALLETT, to certify which, witness my hand and official seal.

Jeffrey Norby
Notary Public Signature



Jeffrey Norby
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 17th day of May, 2012.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 18 day of May, 2012.

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

Approved by the Board and Signed this 14 day of May, 2012.

Luis De La Garza
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board