

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

RICHARD ALLEN MERRILL
TX-1325278-R

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DOCKETED COMPLAINT NO.
08-149

AGREED FINAL ORDER

On the 18th day of May, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of RICHARD ALLEN MERRILL (Respondent).

In order to conclude this matter RICHARD ALLEN MERRILL 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, RICHARD ALLEN MERRILL, is a certified residential appraiser who currently holds TX-1325278-R and held that certification number during all times material to the above-noted complaint case.
2. Respondent appraised 1840 Harvard Street, Houston, Texas 77008 (the "property") on or about May 08, 2007.
3. Thereafter, a complaint relating to this real estate appraisal report was filed with the Board.
4. After receipt of the complaint, 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):
 - a. USPAP Ethics Rule – Respondent failed to comply with the USPAP ethics rule because he communicated assignment results in a misleading manner through the omission of material data, and commission of significant errors and failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions, failed to identify another

appraiser who assisted him by inspecting the property and noting the significant professional assistant this individual provided;

b. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to adequately identify and report the site description; and,

c. USPAP Standards 1-1(a), 1-1(b), 1-1(c); 2-1(a); and, 2-1(b) – For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained substantial errors of omission or commission, which resulted in an appraisal report that was not credible or reliable.

6. The parties enter into the following consent order in accordance WITH TEX. OCC. CODE § 1103.458.

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 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 violated 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.

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

a. During a one (1) year review period, beginning on May 18th, 2012, the effective date of this order, Respondent shall submit to the Board, within seven (7) days of completion of six (6) months, an appraisal experience log on a form prescribed by the Board. The logs shall be submitted every six (6) months for one (1) year (i.e. November 18th, 2012 and May 18th, 2013) and shall detail all real estate appraisal activities he has conducted during the previous six (6) month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate;

i 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 this period of review within the twenty (20) days of notice of any such request;

- b. Attend and complete a minimum, fifteen (15) classroom-hour USPAP course, within twelve (12) months of the effective date of this order;
- c. Attend and complete a minimum, seven (7) classroom-hour "Staying out of Trouble" course (sometimes this course is offered as two separate 3.5 hour courses, one entitled Staying Out of Trouble in Your Appraisal Practice and the other entitled Quality Assurance), within twelve (12) months of the effective date of this order;
- d. Fully cooperate with the Board's ongoing investigations, including providing all requested information and documentation Respondent may have in an accurate and truthful manner. If necessary, Respondent will also provide truthful, complete and accurate testimony about his involvement with William Douglas Askew, TX-1325858-G, in the course of appraising the property;
- e. Fully and timely comply with all of the provisions of this Agreed Final Order, and,
- f. 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 (12) 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 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 REVOCATION of the Respondent's 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 REVOCATION 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 WAVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any revocation by certified mail, return receipt requested, 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.

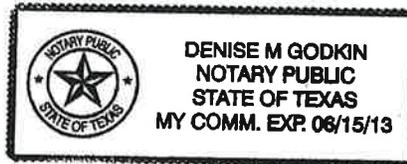
Signed this 30 day of April, 2012.

Richard Merrill
RICHARD ALLEN MERRILL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30 day of April, 2012, by RICHARD ALLEN MERRILL, to certify which, witness my hand and official seal.

Denise Godkin
Notary Public Signature

Denise Godkin
Notary Public's Printed Name



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

Kyle Wolfe
Kyle Wolfe, TALCB Staff Attorney

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

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

Approved by the Board and Signed this 18 day of May, 2012.

Luis De La Garza
Luis De La Garza, Chairperson