

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

vs.

BRAD LEE NICHOLSON TX-1335584-L

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DOCKETED COMPLAINTS  
07-021 & 07-109

RECEIVED  
APR 24 2009  
TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Brad Lee Nicholson (Respondent).

In order to conclude this matter Brad Lee Nicholson 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 Lee Nicholson is a Texas state licensed real estate appraiser, holds license number TX-1335584-L, and has been authorized or licensed by the Board during all times material to the above-noted complaint cases.
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 June 30<sup>th</sup>, 2004, Respondent appraised real property located at 1717 Windmill Circle, DeSoto, Texas ("the Windmill property"). On or about August 10<sup>th</sup>, 2004, Respondent appraised real property located at 1906 Kings Pass, Heath, Texas 503 ("the Kings Pass property"). During the time of these appraisals Respondent was an authorized appraiser trainee working under the sponsorship of William Burton Nelson.
4. Subsequently, complaints were filed against Respondent based on the above-noted appraisal reports. The complaints alleged various violations of the Uniform Standards of Professional Appraisal Practice.
5. Respondent was notified of the nature of the accusations involved and afforded an opportunity to respond to the accusations in the complaints. Respondent's responses to the complaints were received.

6. 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 reports for the properties:

- a) Respondent failed to state the report option used in his appraisal reports for both properties prominently;
- b) Respondent failed to report specific zoning in his appraisal report for the Windmill property;
- c) Respondent failed to provide a brief summary of his rationale for his determination of the properties' highest and best use in his appraisal report for both properties;
- d) Respondent failed to use an appropriate method or technique to develop an opinion of the site value in his appraisal reports for both properties and failed to support in his report or work file for his site value determinations;
- e) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for both properties adequately;
- f) Respondent failed to collect, verify, analyze and reconcile comparable sales data by using improper sales for comparables, including the improper use of assemblages in his appraisal of the Windmill property and unpublished and unverified sales in his appraisal of the Kings Pass property;
- g) Respondent failed to employ recognized methods and techniques correctly in his cost and sales comparison approaches for both properties;
- h) Respondent failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal in his appraisal reports for both properties and/or did not disclose the efforts he made to obtain the agreement of sale of this Windmill property;
- i) Respondent's reports for both properties contained substantial errors of commission or omission with respect to the sales comparison, cost approach and other required disclosures and analyses as noted above;

7. Respondent 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 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 2-2(b); 1-3(a) & 2-

2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 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(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 the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- c. Attend and complete a minimum, 15 classroom-hour course in Cost Approach;
- d. Comply with all 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 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. 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.

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 21 day of April, 2009.



BRAD LEE NICHOLSON

*[Handwritten Signature]*

TED WHITMER, ATTORNEY FOR RESPONDENT

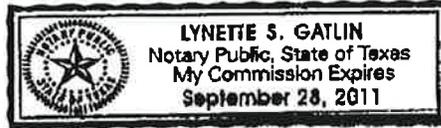
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 21<sup>st</sup> day of April, 2009, by BRAD LEE NICHOLSON, to certify which, witness my hand and official seal.

*[Handwritten Signature]*

Notary Public Signature

*[Handwritten Name]*

Notary Public's Printed Name



Signed by the Commissioner this 24<sup>th</sup> day of April, 2009.

*[Handwritten Signature]*

Loretta DeHay, Interim Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 24<sup>th</sup> day of April, 2009.

*[Handwritten Signature]*

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