

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

NICHOLAS ANGELO PAVLE
TX-1336375-R

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DOCKETED COMPLAINT NO.
12-222, 12-303 & 12-311

AGREED FINAL ORDER

On the 17th day of May, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Nicholas Angelo Pavle (the "Respondent").

In order to conclude this matter, Nicholas Angelo Pavle 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 "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 is a Texas state certified residential real estate appraiser who holds certification number, TX-1336375-R, and was licensed by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property (collectively, "the properties") located at:
 - a. 518 Newcastle Lane, Murphy, Texas 75094 (the "Newcastle property"), on or about May 2, 2007;
 - b. 1115 Avondale Drive, Murphy, Texas 75094 (the "Avondale property"), on or about November 10, 2006;
 - c. 1124 Terrace Mill Drive, Murphy, Texas 75094 (the "Terrace Mill property"), on or about October 12, 2006; and
 - d. 2601 Broadway Drive, Trophy Club, Texas 76262 (the "Broadway property"), on or about June 19, 2012.
3. Thereafter, complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the properties 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, 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 (the "Act"), 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. 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 reports for the properties:

- a) USPAP Ethics Rule -- Respondent violated the Ethics Rule because he communicated assignment results in a misleading and fraudulent manner;
- b) USPAP Scope of Work Rule; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results; and failed to fulfill his scope of work obligation by allowing his trainee to inspect the Broadway property;
- c) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description adequately and misrepresented the lot size and the view from the properties and also failed to identify and report the improvement(s) description adequately;
- d) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to identify and report the specific zoning classification;
- e) USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), misrepresented the one-unit housing price range, and failed to provide supporting documentation and a summary of his reasoning in support of these required analyses, conclusions and determinations which are necessary to reach a credible and reliable market value determination;
- f) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop his opinion of highest and best use;
- g) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of site value determination, and did not provide supporting documentation or data for his determination, and no summary of his analysis and supporting rationale, for the site value determination;
- h) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to provide documentary support or the required analysis for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- i) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because he failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the properties' adjoining properties;

- j) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Respondent has not provided supporting documentation nor his reasoning and a summary of his analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not disclose his analysis and reasoning behind the adjustments he made or elected not to make;
- k) USPAP Standards 1-5(a) and 2-2(b)(viii); 1-1(b); 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent failed to disclose, analyze and reconcile significant and material information regarding the properties' listing history, failed to disclose and analyze the contracts of sale and reconcile that information and data and failed to provide a summary of his supporting reasoning and analysis of all of this information and reconciliation;
- l) USPAP Standards 1-5(b) and 2-2(b)(viii); 1-1(b); 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent made material misrepresentations and omitted material facts concerning a prior sale of the properties and failed to disclose, analyze and reconcile this significant and material information (including summarizing any reasoning supporting any analyses, opinions and conclusions he may have made and failing to provide work file documentation in support of any analyses, opinions and conclusions he may have made) within the 3 years prior to the effect date of each of the appraisal reports Respondent prepared for the properties; and
- m) 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 misleading appraisal reports for the properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in inflated appraisal reports that were not credible or reliable.

6. Respondent made material misrepresentations and omissions of material fact with respect to his appraisal of the properties as detailed above.

7. Respondent failed to disclose significant real property assistance provided by his trainee in the appraisal report of the Broadway property.

8. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

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 violated 22 TEX. ADMIN. CODE § 153.20(9) by making material misrepresentations and omissions of material fact.
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 state certification (TX-1336375-R) is hereby **SUSPENDED** for a period of eighteen (18) months, **effective 5:00 PM (CT) on Friday, May 17, 2013 (beginning date) and ending 5:00 PM (CT) on Monday, November 17, 2014 (ending date).**

1. **EDUCATION.** On or before November 17, 2014. During the eighteen (18) month suspension, 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. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours 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 classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 17, 2014.
2. **MENTORSHIP.** On or before November 17, 2014. During the eighteen (18) month suspension, Respondent shall complete twenty (20) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board 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.**
 - a. Twenty (20) hours of mentorship concerning the above noted violations in the findings of fact, on or before November 17, 2014.

3. **EXPERIENCE LOG.** On or before May 17, 2015. After the eighteen (18) month suspension, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of six (6) months starting after the due dates for the education and mentorship (from November 17, 2014 to May 17, 2015). The log shall detail **all** real estate appraisal activities Respondent has conducted during that six (6) 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 six (6) month period within twenty (20) days of receiving any such request.
4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

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, 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 website.

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, INCULDING 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.

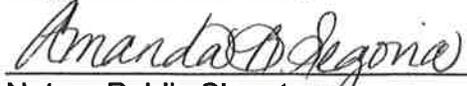


NICHOLAS ANGELO PAVLE



E. MITCHELL MARTZEN, ATTORNEY FOR
NICHOLAS ANGELO PAVLE

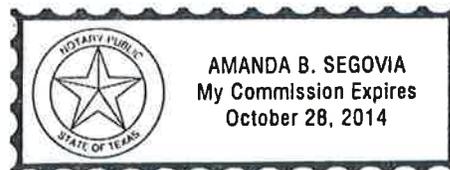
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of March, 2013, by NICHOLAS ANGELO PAVLE, to certify which, witness my hand and official seal.



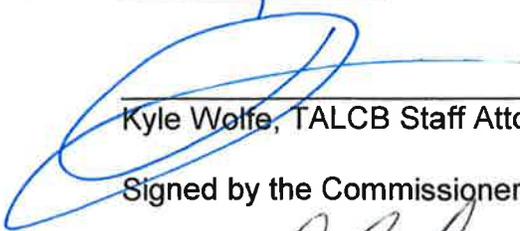
Notary Public Signature

Amanda B. Segovia

Notary Public's Printed Name

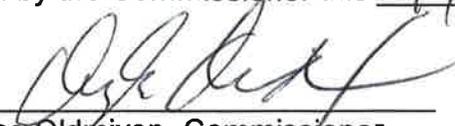


Signed by the Standards and Enforcement Services Division this 16th day of May, 2013.



Kyle Wolfe, TALCB Staff Attorney

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



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

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



Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board