

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MURIEL J. POPE
TX-1330517-R

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DOCKETED COMPLAINT NO.:
13-126

AGREED FINAL ORDER

On the 22 day of Nov, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Muriel J. Pope (the "Respondent").

In order to conclude this matter, the 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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1335017-R, and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised the below-noted real properties on the specified dates (collectively, the "Properties"):

- a. 137 Brook Hollow Lane, Zavalla, Texas 75980, with a date of value opinion of June 13, 2011 and a date of report of June 20, 2011;
- b. 690 Pamela Lane, Lufkin, Texas 75904, with a date of value opinion of August 29, 2011 and a date of report of September 15, 2011;
- c. 1988 County Road 4098, Timpson, Texas 75975, with a date of value opinion of May 25, 2011 and a date of report of May 25, 2011 ; and
- d. 1700 County Road 4020, Crockett, Texas 75835, with a date of value opinion of August 11, 2011 and a date of report of August 25, 2011.

3. Thereafter a referral for investigation was made to the Board by the Federal Housing Administration/U.S. Department of Housing and Urban Development ("HUD") on or about January 14, 2013 (the "Referral"). Pursuant to the Referral from HUD, the Board's Standards and Enforcement Services (SES) Division staff-initiated Complaint Number 13-126 against the Respondent on or about January 15, 2012 (the "Complaint"). The Board reviewed the Complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in the Complaint and afforded the Respondent an opportunity to respond. In response to the Complaint, the Respondent was also requested to provide certain documentation to the Board. The Respondent timely responded.

5. As a result of the Board's investigation, the Board alleges that the Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3)¹ 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 (Record Keeping) – Respondent violated the Ethics Rule because the Respondent failed to maintain a workfile containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions.
- b) USPAP Ethics Rule-(Conduct)-- Respondent violated the Ethics Rule because the Respondent communicated assignment results in a misleading manner through the omission of material facts;
- c) USPAP Competency Rule – Respondent violated the Competency Rule because the Respondent did not acquire the necessary competency to perform the assignment and completed the assignment in an incompetent manor;
- d) USPAP Scope of Work Rule and 1-2(h) and 2-2(b)(vii) – Respondent failed to provide original photographs of the Properties and comparable properties, as required by the Fair Housing Administration assignment conditions;
- e) USPAP Standards 1-2(a) and 2-2(b)(i) – Respondent did not identify the client, FHA/HUD, as an intended user of the report;
- f) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description adequately or negligently misstated the lot size;
- g) USPAP Standards 1-2(f) or 1-2(g), 2-1(b)(c) and 2-2(b)(x) – Respondent completed an appraisal report "as is" which did not accurately disclose any extraordinary assumptions, hypothetical conditions, or limiting conditions that directly affected the analysis, opinions and conclusions;
- h) USPAP Standards 1-2(e)(iii), 1-4(g) and 2-2(b)(viii) – Respondent did not identify and consider the effect on value of any personal property, the manufactured home, that is not real property but included in the appraisal;
- i) USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;

¹ Effective December 27th, 2010, this rule was renumbered without substantive changes.

- j) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the Respondent’s opinion of highest and best use;
- k) USPAP Standards 1-4(b)(i) and 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- l) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements;
- m) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile accrued depreciations;
- n) 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;
- o) USPAP Standards 1-4(e) and 2-2(a)(viii) – Respondent did not appropriately analyze and report the effect on value, if any, on the assemblage of various estates or component parts of a property (that the subject improvements were titled as personal property as of the effective date of the report and not eligible for a FHA insured mortgage); and
- p) 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 non-credible and misleading appraisal reports for the Properties that contained several substantial errors of omission or commission by not employing correct methods and techniques.

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

7. 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 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)².
- 3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9)³ by making material misrepresentations and material 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.

2 Effective December 27th, 2010, this rule was renumbered without substantive changes.

3 Effective December 27th, 2010, this rule was renumbered without substantive changes.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1330517-R) is hereby suspended for twelve (12) months, beginning on Friday, November 22, 2013, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 22, 2014, 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 22, 2014.
 - b. A classroom course on the sales comparison approach, a minimum of seven (7) class hours, on or before November 22, 2014.
 - c. A classroom course on the cost approach, a minimum of seven (7) class hours, on or before November 22, 2014.
 - d. A classroom course which covers the topic of appraising manufactured homes, a minimum of seven (7) class hours, on or before November 22, 2014.
2. **MENTORSHIP.** On or before November 22, 2014. Respondent shall complete eight (8) 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees 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. Eight (8) hours of mentorship concerning the above noted violations in the Agreed Final Order (specifically, the sales comparison approach, the cost approach, and appraising manufactured homes), on or November 22, 2014.
3. Respondent shall fully and timely comply with all of the provisions of the Agreed Final Order; and

4. 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.

ACKNOWLEDGMENT AND WAIVER

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. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, 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 AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN

ATTORNEY OF MY OWN CHOOSING. 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 (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, 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.

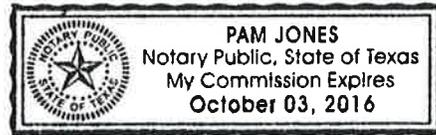
Signed this 24 day of October, 2013.


Muriel J. Pope, TX-1330517-R

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 24~~th~~ day of October, 2013, by Muriel J. Pope, TX-1330517-R, to certify which, witness my hand and official seal.


Notary Public Signature

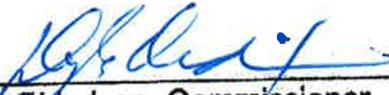
Pam Jones
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 14~~th~~ day of October, 2013.


Mark J. Mrnak, SES Division Director and Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 22 day of NOV, 2013.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 22 day of NOV, 2013.



Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

TALCB COMPLAINT NO. 13-126

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD ("BOARD")

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BEFORE THE TEXAS APPRAISER
APPRAISER LICENSING AND
CERTIFICATION BOARD

V.

MURIEL J. POPE
LICENSE NO. TX-1330517-R

SITTING IN AUSTIN
TRAVIS COUNTY, TEXAS

ORDER GRANTING RESPONDENT'S REQUEST FOR MODIFICATION

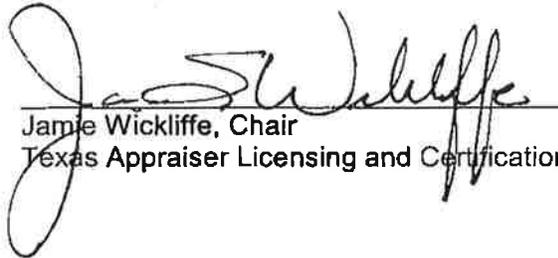
On August 15, 2014, the Texas Appraiser Licensing and Certification Board considered Respondent's request for modification of the Agreed Final Order previously entered in this matter on November 22, 2013.

The Agreed Final Order previously entered in this matter required Respondent to complete a 7-hour course on the topic of appraising manufactured homes on or before November 22, 2014. Respondent has been unable to locate a course to satisfy the terms of the Agreed Final Order and requests the Board to approve 4 hours of mentorship on the topic of appraising manufactured homes in lieu of completing the required 7-hour course on this topic. Respondent's request is timely and complies with Board rule 157.8(d).

Upon review and consideration, the Board GRANTS Respondent's request for modification of the Agreed Final Order.

IT IS THEREFORE ORDERED that Respondent shall complete 4 hours of mentorship on the topic of appraising manufactured homes on or before November 22, 2014. Respondent shall comply with the remaining terms and conditions of the Agreed Final Order previously approved by the Board on November 22, 2013.

Approved by the Board and signed this 15 day of September, 2014.



Jamie Wickliffe, Chair
Texas Appraiser Licensing and Certification Board