

TEXAS APPRAISER LICENSING §
AND CERTIFICATION BOARD

vs.

MARK ANDREW ROBERTS
TX-1327021-G

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DOCKETED COMPLAINT NO.
08-207 AND 08-215

AGREED FINAL ORDER

On this the 11 day of Dec, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Mark Andrew Roberts (Respondent).

In order to conclude this matter Mark Andrew Roberts 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 Mark Andrew Roberts is a Texas state certified general real estate appraiser, holds certification number TX-1327021-G, and has been certified by the Board during all times material to the above-noted complaint cases.
2. On or about October 19th, 2004, Respondent appraised real property located at 508 Josephine Street, Dallas, TX 75246 ("the 508 property").
3. On or about December 23rd, 2004, Respondent appraised real property located at 564 Josephine Street, Dallas, TX 75246 ("the 564 property").
4. On or about June 19th and June 13th, 2008, respectively, the complainant, Mark Liley, Chief Appraiser and Vice President of Flagstar Bank, filed a complaint with the Board on each of Respondent's noted appraisals. The complaint alleged Respondent's reports on both properties contained various deficiencies.
5. 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 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 the Uniform Standards of Professional Appraisal Practice ("USPAP") in effect at the time of the appraisal reports for each property:

- a) Respondent failed to identify and report the site and improvement(s) descriptions adequately;
- b) Respondent failed to provide a brief summary of his determination of the properties' highest and best use;
- c) Respondent failed to provide support for his site value and cost new of improvements determinations and failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent also failed to employ recognized methods and techniques in his cost approach analysis;
- d) Respondent failed to analyze and reconcile sales comparison data adequately and generally did not employ recognized methods and techniques in his sales comparison approach;
- e) Respondent failed to collect, verify, analyze and reconcile comparable data to estimate capitalization and/or discount rates;
- f) Respondent failed to base projections of future rent and expenses on reasonable, clear and appropriate evidence and generally did not employ recognized methods and techniques in his income approach analysis;
- g) Respondent failed to analyze the agreement of sale and listing history for the 564 property;
- h) Respondent failed to analyze a prior sale of the 564 property which occurred within three years of the effective date of his appraisal report; and,
- i) Respondent's reports for both properties contain substantial errors of omission and commission as detailed above which resulted in misleading appraisal reports for both properties.

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(e)(i) & 2-2(b)(iii);

1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(iii) & 2-2(b)(ix); 1-4(c)(iv) & 2-2(b)(ix); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).
 3. Respondent made material misrepresentations and omissions of material fact in his appraisal reports in violation of 22 TEX. ADMIN. CODE § 153.20(a)(9).

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

- a. Have his certification suspended for eighteen months with this suspension being fully probated under the following conditions:
 - i. During the entire probated, eighteen month period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. 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 probation within the twenty days of notice of any such request;
 - ii. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach;
- d. Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing;
- e. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- f. Pay a \$500.00 administrative penalty; and,
- g. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action

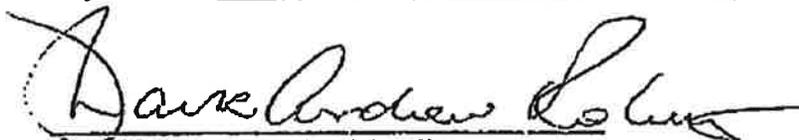
Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order.

ALL CLASSES required by this Agreed Final Order must be class 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. 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.

Failure to timely 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 as provided for by TEX. OCC. CODE § 1103.518, including, but not limited to, revocation of the above-noted probation.

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 in the Board's newsletter and/or 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 NOVEMBER, 2009.


MARK ANDREW ROBERTS

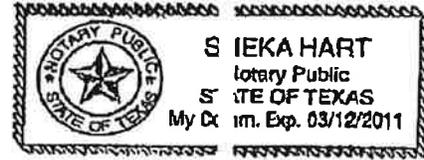

TED WHITMER, ATTORNEY FOR
MARK ANDREW ROBERTS



SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30 day of November, 2009, by MARK ANDREW ROBERTS, to certify which, witness my hand and official seal.

Sheela Hart
Notary Public Signature

Sheela Hart
Notary Public's Printed Name



Signed by the Commissioner this 11 day of Dec, 2009.

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

Approved by the Board and Signed this 11 day of Dec, 2009.

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