

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

SCOTT FRANKLIN SITTER
TX-1333183-R

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DOCKETED COMPLAINT NO.
10-319

AGREED FINAL ORDER

On the _____ day of _____, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the expired certification of Scott Franklin Sitter (Respondent).

In order to conclude this matter, Scott Franklin Sitter 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 Scott Franklin Sitter was a Texas state certified residential real estate appraiser who held certification number TX- 1333183 -R, and was certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised real property located at: 6905 Windswept Circle, Fort Worth, TX 76135 (the "property") on or about May 7, 2009.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the properties that did not conform to Uniform Standards of Professional Appraisal Practice.
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, 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 report for the property:
 - a) USPAP Ethics Rule (Record Keeping) – Respondent failed to comply with the USPAP ethics rule because he failed to maintain a work file containing all data,

information, and documentation necessary to support the appraiser's opinions and conclusions;

- b) USPAP Scope of Work Rule – Respondent failed to support his work with the relevant evidence and logic required by this rule to obtain credible assignment results;
- c) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to correctly report the specific zoning classification;
- d) USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent failed to provide support for his opinions and conclusion in the neighborhood section of the report;
- e) USPAP Standards 1-3(b) & 2-2(b)(viii)– Respondent failed to provide his supporting rationale for his determination of the property's highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); and, 1-1(a) & 1-4(b) --Respondent failed to use an appropriate method or technique to develop an opinion of the site value; failed to collect, verify, analyze and reconcile the cost new of improvements; failed to collect, verify, analyze and reconcile the cost of accrued depreciations; and generally failed to employ recognized methods and techniques for the Cost Approach;
- g) USPAP Standards 1-4(a) & 2-2(b)(viii) and 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile the comparable sales data; and generally failed to employ recognized methods and techniques in the Sales Comparison Approach;
- h) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and,
- i) USPAP Standards 1-1(a), 1-1(b), 1-1(c); 2-1(a); and 2-1(b) – Respondent produced misleading appraisal reports for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques and not analyzing and reconciling significant and material information he had a duty to analyze and reconcile. This resulted in appraisal reports that had inflated value determinations and were not credible or reliable.

6. Respondent omitted material facts and made material misrepresentations as described in more detail above.

7. 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) by making material misrepresentations and omitting material facts.
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. Within twelve (12) months of the effective date of this order (i.e. on or before May 18th, 2013), Respondent shall complete five (5) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and, within twelve (12) months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- b. 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), with twelve months of the effective date of this order;
 - i. No examination is required for the seven (7) classroom-hour course;
- c. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- d. 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 SUSPENSION 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 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 shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order and provides adequate documentation of same 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 3rd day of May, 2012.

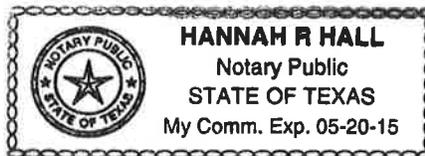


SCOTT FRANKLIN SITTER

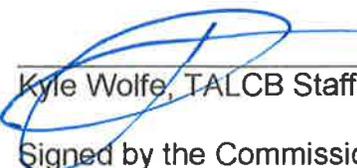
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of May, 2012, by SCOTT FRANKLIN SITTER, to certify which, witness my hand and official seal.


Notary Public Signature

Hannah R Hall
Notary Public's Printed Name



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



Kyle Wolfe, TALCB Staff Attorney

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



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 11 day of May, 2012.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board