

TEXAS APPRAISER LICENSING §
AND CERTIFICATION BOARD

vs.

ROBERT SMALLWOOD
TX-13218633-R

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DOCKETED COMPLAINT NO.
13-206

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 Robert Smallwood (the "Respondent").

In order to conclude this matter, Robert Smallwood 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-13218633-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 319 East Robinwood Drive, White Oak, Texas (the "property") in two separate appraisal reports both on or about February 9th, 2013.
3. Thereafter a complaint was filed with the Board by Patty Cooper, an employee of Streeklings Lender Solutions. The complaint alleges that the Respondent produced an appraisal report for the property 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 notified Respondent of the nature of the accusations involved for the complaint and property and Respondent was afforded the opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of his two appraisal reports for the property:

- a) USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;
 - b) USPAP Standards Scope of Work Rule 1-2(h) and 2-2(b)(vii) – Respondent failed to properly identify the problem to be solved and/or determine/perform the Scope of Work necessary to develop credible assignment results and/or disclose the Scope of Work in the report;
 - c) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
 - d) USPAP Standards 1-3(a) & 2-2(b)(viii) & 1-3(b) & 2-2(b)(viii) – Respondent failed to provide his supporting rationale for his neighborhood opinions and conclusions nor did he provide a brief summary of his supporting rationale for his determination of the property's highest and best use;
 - e) USPAP Standards 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to provide his supporting rationale for his site value determination, cost of improvements and accrued depreciation conclusions. Respondent did not employ recognized methods and techniques in the cost approach;
 - f) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to adequately correct, verify, analyze, and/or reconcile comparable sales data and failed to employ recognized methods and techniques in his Sales Comparison Approach;
 - g) USPAP Standards 1-6(a)&(b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and/or quantity of the data within the approaches used and/or the suitability of the approaches; and,
 - h) USPAP Standards 1-1(a), 1-1(b), 1-1(c); and 2-1(a) – Respondent produced a misleading appraisal report 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 an appraisal report that was not credible or reliable.
6. Respondent omitted material facts and made material misrepresentations in his appraisals of the property as described in more detail above.
7. The parties enter into this consent order ("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)(6).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by making material misrepresentations 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.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended for a period of 12 months, effective 5:00 p.m. (CST) on August 16th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on November 22nd, 2013, the suspension is to be fully probated for 12 months ending 5:00 p.m. (CST) on November 21st, 2014, subject to the following terms and conditions:

1. **EDUCATION.** On or before April 22nd, 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 and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **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 minimum fifteen (15) classroom-hour course in USPAP.
2. **MENTORSHIP.** On or before February 22nd, 2014, Respondent shall complete four (4) hours of in-person mentorship in the sales comparison approach, conducted by a certified USPAP instructor approved by the Board. 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 shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the 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.**

3. **ADMINISTRATIVE PENALTY.** On or before December 12th, 2013, Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500.00).
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

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 COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. 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 web site.

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.

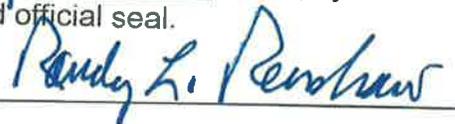
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

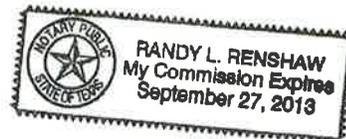
Signed this 17th day of SEPTEMBER, 2013.


ROBERT SMALLWOOD


TED WHITMER, ATTORNEY FOR
ROBERT SMALLWOOD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17th day of SEPTEMBER, 2013, by ROBERT SMALLWOOD, to certify which, witness my hand and official seal.

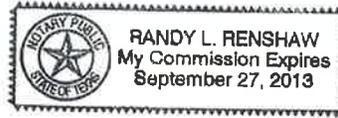




Notary Public Signature

RANDY L. RENSHAW

Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 18TH day of SEPTEMBER, 2013.

Troy Beaulieu

Troy Beaulieu
TALCB Staff Attorney

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

Douglas E. Oldmixon

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

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

Walker Beard

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board