TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 09-103
	§	
GENE C. STEWART TX-1334957-R	§	

AGREED FINAL ORDER

On this the 10 day of Aug, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Gene C. Stewart, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Gene C. Stewart 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 Gene C. Stewart is a state certified residential real estate appraiser, holds certification number TX-1334957-R, and has been certified by the Board during all times material to this complaint.

2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.

3. Respondent appraised real property located at 2680 Creekwood Drive, Cedar Hill, Texas 75104 ("the property") on or about January 26th, 2006.

4. On or about February 9th, 2009, the Complainant, Deloris L. Kraft-Longoria, filed a staff-initiated complaint with the Board based on allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

5. On or about February 10th, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. 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. Respondent failed to identify and report the site and improvement(s) descriptions adequately;

b. Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends and failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;

c. Respondent failed to use an appropriate method or technique to develop an opinion of the site value and failed to collect, verify, analyze and reconcile the cost new of improvements and accrued depreciations;

d. Respondent failed to employ recognized methods and techniques in his cost approach;

e. Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach; and,

f. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

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 §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(ix); 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); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and 2-1(b).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by by making material misrepresentations and omitting material facts.

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

a. Attend and complete a minimum, 15 classroom-hour course in USPAP;

b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;

c. Attend and complete a minimum, 7 classroom-hour course in Whatever Happened to Quality Assurance in Residential Appraisals: Avoiding Risky Appraisals and Risky Loans or Valuation by Comparison: Residential Analysis and Logic;

    i. No examination shall be required for this course;

d. Attend and complete a minimum, 7 classroom-hour course in Mortgage Fraud;

    i. No examination shall be required for this course;

e. Pay to the Board an administrative penalty of $500.00; and

f. Comply with all 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 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. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

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

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 satisfies that portion of the Agreed Final Order which he has defaulted on 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 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 26th day of July, 2010.

GENE C. STEWART

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 26TH day of July, 2010, by GENE C. STEWART, to certify which, witness my hand and official seal.

Grace Stewart
Notary Public Signature

GRACE STEWART
Notary Public's Printed Name

GRACE STEWART
Notary Public, State of Texas
Commission Expires
September 11, 2010

Signed by the Standards and Enforcement Services Division this 19th day of AUGUST, 2010.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 20 day of Aug, 2010.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20 day of Aug, 2010.

James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board