

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOHN STEWART
TX-1322901-G

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DOCKETED COMPLAINT NO.
10-369

AGREED FINAL ORDER

On this the _____ day of _____, 2012, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of John Stewart (Respondent).

In order to conclude this matter John 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, John Stewart, is a state certified general appraiser who currently holds TX-1322901-G and held that certification number during all times material to the above-noted complaint cases.
2. Respondent appraised 12733 Tierra Mina Drive, El Paso, TX 79938 (the "property") on or about June 4, 2010.
3. Thereafter, a complaint relating to this real estate appraisal report was filed with the Board. The complaint alleged that Respondent's appraisals were deficient, in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP") and not completed properly.
4. After receipt of the complaint, 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 response to the complaint was received.
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 – Respondent failed to comply with the USPAP ethics rule because he communicated assignment results in a misleading manner through

the omission of material data, and commission of significant errors and failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions;

- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to adequately identify and report improvement(s) description;
- c) 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;
- d) USPAP Standards 1-3(b) & 2-2(ix) -- Respondent failed to provide his supporting rationale for his determination of the property's highest and best use;
- e) 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;
- f) USPAP Standards 1-4(a) & 2-2(b)(viii) and 1-1(a) & 1-4(a) -- Respondent failed to collect, verify, analyze and reconcile comparable sales data; and did not employ recognized methods and techniques in the Sales Comparison Approach;
- g) USPAP Standards 1-6(a) & (b) and 2-2(b)(viii) -- Respondent failed to reconcile the quality and quantity of the data within the approaches he used; and,
- h) 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.

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

9. 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. During a eighteen(18) month review period, beginning on May 18th, 2012, the effective date of this order, Respondent shall submit to the Board, within seven (7) days of completion of six (6) months, an appraisal experience log on a form prescribed by the Board. The logs shall be submitted every six (6) months for eighteen (18) months (i.e. November 18th, 2012, May 18th, 2013 and November 18th, 2013) and shall detail all real estate appraisal activities he has conducted during the previous six (6) month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate;
 - i. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments she performs during the course of this period of review within the twenty (20) days of notice of any such request;
- b. Attend and complete a minimum, fifteen (15) classroom-hour USPAP course, within twelve (12) months of the effective date of this order;
- c. Attend and complete a minimum, seven (7) classroom-hour course in the cost approach, within twelve (12) months of the effective date of this order;
- d. Attend and complete a minimum, seven (7) classroom-hour course in residential report writing, within twelve (12) months of the effective date of this order
- e. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- f. 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.**

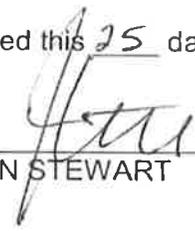
Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final 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 25 day of APRIL, 2012.

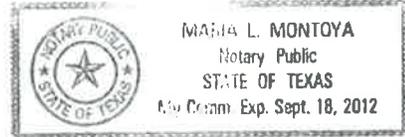


JOHN STEWART

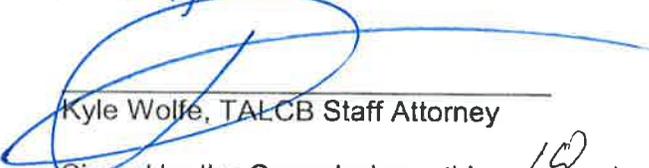
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25 day of April, 2012, by JOHN STEWART, to certify which, witness my hand and official seal.


Notary Public Signature

Maria L Montoya
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 19 day of May, 2012.


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

Approved by the Board and Signed this 18 day of May, 2012.


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