

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO.
08-189 & 08-248

GARY EUGENE STRAACH
TX-1334813-R

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AGREED FINAL ORDER

On this the 21st day of May, 2010, the Texas Appraiser Licensing and Certification Board, (the Board) considered the matter of the certification of Gary Eugene Straach (Respondent).

In order to conclude this matter Gary Eugene Straach denies the truth of the Findings of Fact and Conclusions of Law contained herein but 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 Gary Eugene Straach is a Texas state certified residential real estate appraiser, holds certification number TX-1334813-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. Respondent appraised 228 Sorrel Trail, Keller, Tarrant County, Texas ("the Keller property") on or about April 9th, 2008.
3. Respondent appraised 7814 FM 920 N, Poolville, Wise County, Texas ("the Poolville property") on or about April 23rd, 2008.
4. Respondent appraised 2259 Nantucket Village Drive, Dallas, Dallas County, Texas ("the Nantucket property") on or about May 19th, 2006.
5. Thereafter complaints relating to each of these real estate appraisal reports were filed with the Board. The complaints alleged that Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice in his completion of these reports.
6. After receipt of each 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 responses were received.

7. 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 Keller property:

- a) Respondent failed to identify and report the site and improvement(s) description adequately;
- b) Respondent failed to consider and reported easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- c) Respondent failed to provide a summary of his supporting reasoning behind his highest and best use determination;
- d) Respondent failed to use appropriate methods and techniques to develop his site value determination and failed to employ recognized methods and techniques in his cost approach;
- e) Respondent failed to collect, verify, analyze and reconcile sales comparison data adequately and failed to use improper methods and techniques correctly in his sales comparison approach;
- f) Respondent's report contained substantial errors of commission or omission which resulted in a misleading and unreliable appraisal report.

8. 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 Poolville property:

- a) Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule;
- b) Respondent failed to identify and report the site and improvement(s) description adequately;
- c) 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) Respondent did not provide a summary of his supporting reasoning behind his highest and best use determination;
- e) Respondent did not use appropriate methods and techniques to develop his site value determination, has not collected, verified, analyzed and reconciled accrued depreciations and has failed to employ recognized methods and techniques in his cost approach;

- f) Respondent failed to analyze, collect, verify and reconcile sales comparison data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
 - g) Respondent failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal;
 - h) Respondent's report contained substantial errors of commission or omission as detailed above, all of which resulted in a misleading and unreliable appraisal report.
9. 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 Nantucket property:
- a) Respondent failed to comply with the Supplemental Standards Rule since he did not analyze a prior sale of comparable one;
 - b) Respondent failed to identify and report the site and improvement(s) descriptions adequately;
 - c) Respondent failed to provide a summary of his supporting reasoning behind his highest and best use determination;
 - d) Respondent did not use appropriate methods and techniques to develop his site value determination, has not collected, verified, analyzed and reconciled accrued depreciations and has failed to employ recognized methods and techniques in his cost approach;
 - e) Respondent failed to analyze, collect, verify and reconcile sales comparison data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
 - f) Respondent failed to collect, verify, analyze and reconcile comparable data to estimate capitalization and/or discount rates and failed to employ recognized methods and techniques correctly in his income capitalization approach;
 - g) Respondent failed to analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal;
 - h) Respondent's report contained substantial errors of commission or omission as detailed above, all of which resulted in a misleading and unreliable appraisal report;
10. Respondent omitted material facts and made material misrepresentations and omitted material facts in the appraisal reports as detailed above.

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 TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (conduct and record-keeping provisions); USPAP Supplemental Standards Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(viii); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) 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 the Cost Approach; ✓
- c. Attend and complete a minimum, 15 classroom-hour course in the Income Approach; 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 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.

Failure to comply with any of the terms required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to

notice to the Respondent from the Board indicating that the Respondent has not fulfilled the required terms 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 license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses 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 13 day of MAY, 2010.

[Signature]
GARY EUGENE STRAACH

[Signature]
TED WHITMER, ATTORNEY
FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 13th day of May, 2010, by GARY EUGENE STRAACH, to certify which, witness my hand and official seal.

[Signature]
Notary Public Signature

Hope Disibbio Woolwine
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 25TH day of MAY, 2010.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2010.

Signed by the Commissioner this 21 day of May, 2010.

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

Approved by the Board and Signed this 21st day of May, 2010.

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