

RECEIVED
TEXAS REAL ESTATE COMMISSION

JAN 09 2009

CASHIER'S SECTION
OPERATOR 13

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DOCKETED COMPLAINT NO.
07-055 & 08-246

TU Q. TRAN
TX-1331622-G

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AGREED FINAL ORDER

On this the 20th day of February, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Tu Q. Tran (Respondent).

In order to conclude this matter, Tu Q. Tran 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 Tu Q. Tran is a Texas certified general real estate appraiser, holds certification number TX-1331622-G, and has been certified by the Board during all times material to the above-noted complaint cases.
2. On or about September 12th, 2006, Respondent appraised real property located at 12625 Memorial Drive, Unit 75, Houston, Texas 77024 ("the Memorial property"). On or about April 16th, 2004, Respondent appraised real property located at 4846 Culmore Drive, Houston, Texas 77021 ("the Culmore property").
3. On or about December 18th, 2006, Tuan Thai filed a complaint with the Board. The complaint alleged that Respondent had used his signature and appraisal license on an appraisal report for the Memorial property. On or about August 28th, 2008, Deloris Kraft-Longoria, filed a staff-initiated complaint with the Board, which alleged that Respondent's appraisal report for the Culmore property contained violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. On or about January 11th, 2007 and September 9th, 2008 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 complaints was received.

5. Respondent violated 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 Culmore property:

- a. Respondent failed to provide a brief summary of the basis for his rationale for his highest and best use determination;
- b. Respondent failed to provide the support for his site value, cost new of improvements, and depreciation conclusions, and generally did not employ recognized methods and techniques in his cost approach analysis;
- c. Respondent failed to collect, verify, analyze and reconcile comparable sales data properly, made numerous errors and omissions in the adjustments for the comparables used, and did not correctly employ recognized methods and techniques in his sales comparison analysis;
- d. Respondent failed to analyze the agreement of sale and erroneously reported that there was no sales activity in the three years prior to the effective date of his appraisal report; and,
- e. Respondent's report for the property contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property that was not credible.

6. Respondent material misrepresentations and omitted material facts as detailed above in his appraisal report for the Culmore property.

7. Respondent knowingly affixed the signature of Tuan Thai to the Memorial property appraisal report without Tuan Thai's knowledge of the appraisal report or his consent to do so and knowingly submitted the report to a client.

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 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 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); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-1(b); 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. Have his certification suspended with the suspension being probated under the following conditions:
 - i. During the first month of probation Respondent's certification shall be fully suspended and he shall not engage in any real estate appraisal activity;
 - ii. During the remaining eleven months of probation Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request;
 - iii. Respondent shall sponsor no appraiser trainees during the entire period of his 12 month suspension; and,
 - iv. Respondent shall timely remit payment of the administrative penalty, and timely complete all of the remedial coursework required in this Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- d. Attend and complete a minimum, 5 classroom-hour course in Mortgage Fraud;
 - i. No examination shall be required for this course;
- e. Pay to the Board an administrative penalty of \$2,500.00, the payment of which shall be made in 12 equal installments of \$208.33, with the first payment being due on or before March 1st, 2009 and the remaining installments being due on the first day of each month thereafter until paid in full; 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 **NINE 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.

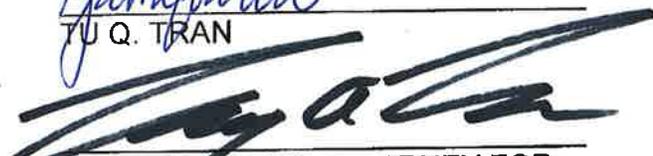
Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including but not limited to revocation of the above-noted probation.

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 24th day of December, 2008.

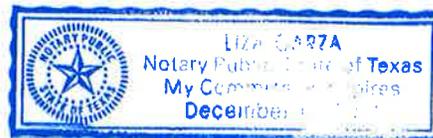

TU Q. TRAN


TRANG Q. TRAN, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 24th day of December, 2008 by TU Q. TRAN, to certify which, witness my hand and official seal.


Notary Public Signature

Liza Garza
Notary Public's Printed Name



Signed by the Commissioner this 20th day of February, 2009.



_____, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of February, 2009.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board