

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

PAUL GEORGE ZACOUR
TX-1322726-G

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DOCKETED COMPLAINT NO.
13-256

AGREED FINAL ORDER

On the 9 day of May, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Paul George Zacour (the "Respondent").

In order to conclude this matter, Paul George Zacour 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 "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 is a Texas state certified general real estate appraiser who holds certification number, TX-1322726-G, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 461 Majestic Mountain Drive, El Paso, Texas ("the property") on or about June 14th, 2013.
3. Thereafter, a complaint was filed with the Board by Rene Garcia, the owner of the property, claiming the appraisal report contained various deficiencies. The Board reviewed the complaint to ensure compliance with 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, 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 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an 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 appraisal report for the property:

- a) USPAP Record Keeping Rule – Respondent's work file does not contain the documentation necessary to support his analyses, opinions and conclusions;
- b) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to perform the necessary scope of work necessary for development of credible assignment results;
- c) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) and 2-2(b)(x) – Respondent failed to state all hypothetical conditions, that their use might have affected assignment results and obtain specifications of the property's proposed improvements sufficient to provide credible assignment results;
- d) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the improvement(s) and site description adequately;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii) – Respondent misrepresented the property was not in a planned unit development and subject to mandatory homeowner association fees and failed to disclose and analyze this information;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of economic supply & demand, and market area trends and did not summarize his rationale for his highest and best use determination;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not collect, verify, analyze and reconcile the cost new of improvements. Recognized methods and techniques were not employed correctly in the cost approach;
- h) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in his sales comparison approach;
- i) USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to analyze and provide his summary rationale of any such analysis of the agreement of sale of the property current as of the effective date of his appraisal;
- j) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze and disclose a prior sale of the property that occurred 1 month prior to the effective date of Respondent's appraisal on the property;
- k) USPAP Standards 1-69a), (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches to value; and,
- l) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained

substantial errors of omission or commission by not employing correct methods and techniques.

6. Respondent made material misrepresentations omissions of material fact with respect to his appraisal of the property as detailed above.

7. The parties enter into this consent 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(12) by making material misrepresentations and omissions of material fact.

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, effective 5:00 p.m. (CST) on May 9th, 2014 and ending at 5:00 p.m. (CST) on May 8th, 2015. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on May 9th, 2014, the suspension is to be fully probated for 12 months, ending 5:00 p.m. (CST) on May 8th, 2015, subject to the following terms and conditions:

1. **MENTORSHIP.** On or before September 9th, 2014. Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each 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.** The 8 hours of mentorship shall include:

a. 2 hours in the cost approach;

b. 4 hours in research, selection and analysis of comparable sales; and

- c. 2 hours in research, analysis and reporting of prior sales and listing history;
- 3. **EXPERIENCE LOG.** On or before March 23rd, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the immediately preceding 30-day period. The log shall detail *all* real estate appraisal activities Respondent has conducted during that immediately preceding 30-day period. This log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments Respondent performs during the course of this 30-day period within twenty (20) days of receiving any such request.
- 4. **ADMINISTRATIVE PENALTY.** On or before May 29th, 2014. Respondent shall pay to the Board an administrative penalty of seven hundred and fifty dollars (\$750.00) by certified funds.
 - 5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
 - 6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

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 FOR THE FULL TERM COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

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 website.

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.

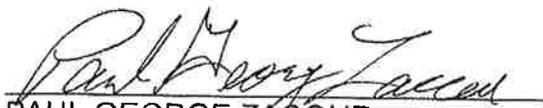
I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I 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 AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. 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, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF MENTORSHIP, 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.

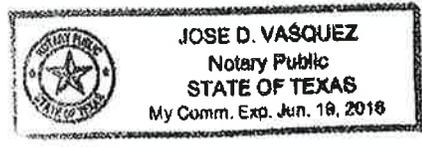
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 28th day of March, 2014.


PAUL GEORGE ZACOUR

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 28th day of March, 2014, by PAUL GEORGE ZACOUR, to certify which, witness my hand and official seal.

Notary Public Signature
Jose D. Vasquez
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15th day of APRIL, 2014.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 9 day of May, 2014.

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

Approved by the Board and Signed this 9 day of May, 2014.

Jamie S. Wickliffe
Jamie S. Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board