

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD



BOARD MEETING

MAY 17, 2013



Stephen F. Austin Building
Room 170
1700 N. Congress Ave
Austin, Texas



MEETING AGENDA

Texas Appraiser Licensing & Certification Board
Room 170, TALCB Headquarters Office
Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701

Friday, May 17, 2013, 10:00 a.m.

CALL TO ORDER

1. Call to order and pledges of allegiance
2. Roll call and discussion and possible action to excuse Board member absences, if any

APPOINTMENTS

3. Discussion and possible action regarding appointment of Diana Jacob as a Mentor

OFFICIAL RECORD

4. Ratification of the Secretary of the Board's approval of the official record of the February 15, 2013, Board meeting

PUBLIC COMMENTS

5. Comments from members of the public regarding non-agenda items

ENFORCEMENT MATTERS

6. Executive session to receive advice of counsel pursuant to Texas Government Code §551.071
7. Discussion and possible action to approve agreed final orders and surrenders in the matter of:
 - a. Complaint #09-083 (Jeffrey Lee Hoelscher, TX-1335416-R)
 - b. Complaint #10-349 (Jose Luis Aguilar, TX-1334753-L)
 - c. Complaint #12-292 (John E. Maher, TX-1338562-R)
 - d. Complaint #13-068 (Robert Kennedy Arnold, TX-1324236-R)
 - e. Complaint #13-077 (Kerry Dane Osborne, TX-1334585-L)
 - f. Complaint #10-309 (Diana Frances Bratton, TX-1324411-R)
 - g. Complaint #11-410 (Richard Allen Merrill, TX-1325278-R)



- h. Complaint #12-102 (Michael Joseph Kalil, TX-1323436-R)
 - i. Complaint #s11-276 & 11-247 (Carolyn Marie Moody, TX-1324186-G)
 - j. Complaint #s12-231 & 13-090 (Pamela F. Newkirk, TX-1333126-R)
 - k. Complaint #s12-169 & 09-119 (Brad K. Harris, TX-1323199-G)
 - l. Complaint #s12-222, 12-303 & 12-311 (Nicholas Angelo Pavle, TX-1336375-R)
 - m. Complaint #11-336 (Timothy Keith Lugeanbeal, TX-1332250-R)
 - n. Complaint #13-118 (Joshua Shae Hatfield, TX-1338755-R)
 - o. Complaint #s13-120 & 13-169 (Freda Gail Maynard, TX-1334602-R)
 - p. Complaint #10-288 (Gregory Ozaeta, TX-1333912-R)
 - q. Complaint #11-419 (Richard Thomas Jones, TX-1331973-R)
 - r. Complaint #12-183 (Barry William Johnson, TX-1332156-R)
 - s. Complaint #13-022 (Blake Taylor Stratton, TX-1337605-R)
 - t. Complaint #13-047 (Richard Leo Dockery, TX-1322548-G)
 - u. Complaint #13-092 (Eric Lane Clanton, TX-1337041-R)
 - v. Complaint #13-073 (David Louis Smedley, TX-2878)
 - w. (Ndubuisi Alfred Ukandu, TX-1335302-L)
8. Discussion and possible action to approve modifications of Board orders in the matter of:
- a. Complaint #s05-089 & 07-030 (Joshua Stone Baugher, TX-1331720-L)
 - b. Complaint #09-168 (Steven Dale Brooks, TX-1321893-R)
9. Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-12-7842.ALC (Tom M. Curran, TX-1321290-R)

COMMITTEE REPORTS

- 10. Report by Executive Committee
- 11. Report by Budget/Finance Committee
- 12. Report by Enforcement Committee
- 13. Report by AMC Advisory Committee

STAFF REPORTS

- 14. Staff reports by Commissioner, Deputy Commissioner, and Division Directors, which may include reports on processes, monthly activities and statistical data for communications, licensing, education, information technology, staff services, and enforcement; current topics related to regulation of real estate appraisers; discussion of topics raised by monthly reports; introduction of new employees; and questions by Board members to staff regarding issues raised by the staff reports

**RULES FOR POSSIBLE ADOPTION**

15. Discussion and possible action to adopt amendments to 22 TAC §153.24 concerning Complaint Processing
16. Discussion and possible action to adopt amendments to 22 TAC §153.21 concerning Appraiser Trainees and Sponsors

RULES FOR POSSIBLE PROPOSAL

17. Discussion and possible action to propose amendments to 22 TAC §153.20 concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
18. Discussion and possible action to propose new 22 TAC Chapter 157, Subchapter E, Alternative Dispute Resolution as follows:
 - a. §157.30, Alternative Dispute Resolution
 - b. §157.31, Informal Conference
 - c. §157.32, Negotiated Settlement
 - d. §157.33, Mediation
 - e. §157.36, Stipulations
 - f. §157.37, Agreements
 - g. §157.38, Confidentiality
19. Discussion and possible action to propose amendments to 22 TAC §159.159 concerning Disclosure of Registration Number
20. Discussion and possible action to propose amendments to 22 TAC §159.109 concerning Inactive Status
21. Discussion and possible action to propose amendments to 22 TAC §159.155 concerning Periodic Review of Appraisals

PENDING BUSINESS

22. Discussion and possible action on recommendations from the Executive Committee
 - a. regarding approval of a policy on Board meeting decorum
 - b. regarding responsibilities of the TALCB liaison to the Texas Real Estate Commission
 - c. regarding use of the Commission's evaluation form for input on Commissioner's job performance
 - d. regarding a system or procedure to track staff implementation of Board directives
23. Discussion and possible action on recommendations from the Budget/Finance Committee regarding the FY2014 TALCB draft budget



24. Discussion and possible action to issue policy guidelines regarding AMC's required periodic review of appraisals
25. Discussion and possible action on recommendations from the Enforcement Committee:
 - a. regarding guidelines for compliance matters for Board Final Orders
 - b. regarding approval of revised Complaint Intake Form
26. Discussion regarding jurisdictional exception under 22 TAC §155.1

NEW BUSINESS

27. Discussion and possible action to approve the following revised forms:
 - a. Renewal of Appraiser Trainee Approval
 - b. Renewal of Appraiser License
 - c. Renewal of Appraiser Certification
 - d. Application for Approval as an Appraiser Trainee
 - e. Addition or Termination of Appraiser Trainee Sponsorship
28. Discussion and possible action to approve a new paper form for an AMC to add or terminate an appraiser on the AMC's panel
29. Discussion regarding legislative matters

OTHER BUSINESS

30. Request for new business agenda items
31. Discussion and possible action to schedule future meeting dates
32. Adjourn

The Texas Appraiser Licensing and Certification Board may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code, §551.071.



AGENDA ITEM 1

Call to order and pledges of allegiance.

Texas Pledge

“Honor the Texas flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.”

AGENDA ITEM 2

Roll call and discussion and possible action to excuse Board member absences, if any.

RECOMMENDED MOTION

MOVED, that the absence(s) of _____
for the May 17, 2013, Board meeting is/are hereby excused.



AGENDA ITEM 3

Discussion and possible action regarding appointment of Diana Jacob as a Mentor.

SUMMARY

To be presented.

STAFF RECOMMENDATION

Staff recommends that the Board appoint Diana Jacob as a Mentor.

RECOMMENDED MOTION

MOVED, that the Board appoint Diana Jacob as a Mentor for the Board's mentorship program.



Application to Serve on a TALCB Peer Investigative Committee (PIC)/Act as Mentor

Applicants must meet the following minimum requirements:

- Texas-certified as an appraiser
- In good standing in Texas and any other state of licensure/certification
- Certified USPAP instructor
- Willing and able to attend a PIC and/or Mentor training session
- Willing and able to complete four investigative reviews in a year (roughly one per quarter), each within 30 days of assignment and/or
- Willing and able to perform a minimum of 32 hours in a year of in person mentorship meetings with appraisers who are required by TALCB to complete a mentorship program

1. Personal Information and Certification #:

Diana T. Jacob		TX 1280215 a	
Name		Texas Appraiser Certification #	
3156 State Hwy 22	Hillsboro	TX	76645
Street address or P.O. Box		State	Zip Code
210.363.5950	NONE	dianatjacob@yahoo.com	
Work Phone Number	Fax Number	Email	

2. Are you licensed/certified in any other state? If so, list: NC A2994 (Gen) GA 207580 (Gen) LA R537 (Res)

3. Are there any lawsuits, regulatory complaints, or criminal action pending against you in Texas or elsewhere?
 Yes No (If yes, explain)

I have no day to day practice in a specific area of TX. I specialize in assisting appraisers in regulatory compliance working currently as a compliance manager for a TX Registered AMC. I'm a nationally recognized author and instructor of Real Property Appraisal courses having taught in 35 states. I have also been accepted in TX SOAH as an expert witness in areas of USPAP. My expertise is in regulatory compliance.

4. What market area(s) do you serve? _____

5. What property type(s) do you appraise? Residential, Vacant Land, Light Commercial, Farms, Golf Courses (see resume)

6. I wish to be appointed to serve on the PIC act as a Mentor both

7. Please attach a letter on your professional letterhead stating your qualifications and experience as an appraiser and USPAP Certified Instructor, and your rationale for requesting appointment to the PIC or to act as a Mentor.

By my signature below, I certify that the information I have provided is true and correct. If I am appointed to serve on a peer investigative committee, I agree to perform each investigative review assigned to me within 30 days of assignment. I will decline any assignment I am not competent to complete or that presents a conflict of interest or even the appearance of a conflict of interest. If I am appointed to act as a Mentor, I will discuss the Uniform Standards of Professional Appraisal Practice; real estate appraisal practices, skills, and methods with the appraiser in an effort to improve the individual's skills as a real estate appraiser.

Diana T. Jacob Signature of Applicant 04/03/2013 Date Signed

Please return a signed application, letter of qualifications, and PIC Service Agreement and/or Mentor Appointment Agreement to TALCB at the address provided above. TALCB will make a determination, in its sole discretion, based on the application and any other information it deems relevant to the appointment.

This document is available on the TALCB website at www.talcb.texas.gov



Diana T. Jacob

AQB USPAP Instructor #10022

3156 State Hwy 22
Hillsboro, TX 76645

210.363.5950 cell/work
dianatjacob@yahoo.com

April 3, 2013

Beverly Arnold, Mentorship Program Coordinator
TALCB Enforcement Division
PO Box 12188
Austin, Texas 78711-2188

RE: Request to be reappointed to the TALCB Mentor Program

I am requesting the privilege of being formerly re-appointed to the Mentor team that I've served on from its implementation with the exception of the past 3 months as a result of your decision to remove me based on my lack of being a TX certified appraiser. Over the past term of this program I've had the privilege of mentoring more than a dozen Texas Certified Appraisers who were required in their consent order to complete specified hours of mentor time.

I teach USPAP several times a year but I've never had such fulfillment of contribution as I do when I am able to listen to the appraisers' stories about what brought them to this point of participating in the Mentor Program and how much they love their appraisal practice. I have gone through, as you have requested, the process of obtaining my Texas Certification (TX #1380215 G). I'm in hopes that you will consider my re-appointment so that I may continue giving back to those appraisers charged with completing the Mentor Program a specialized education. I believe strongly in your Mentor Program and have had several conversations with appraisers after the program who has affirmed the positive impact the experience has had on their lives and their practice.

As I stated in my first request to be formerly re-appointed, I personally would like to see you expand on this program to non-disciplined appraisers by considering statewide round-tables where the mentors and possibly a PIC member (at least two at a time) and an investigator as well as a TALCB member would be available for a day to both bring a short overview of the recent changes in the TX Appraisal Law and be willing to look over volunteered reports for which the appraiser could receive continuing education credit and could, without recrimination, be open to having their work critiqued. I think it would go a long way in establishing a good rapport with the TALCB.

Please note I've attached my qualifications in this request for appointment packet as you've required. Should you need any additional information I am available at any time to provide such a request.

Sincerely,

Diana T. Jacob

AQB USPAP Certified Instructor #10022
TX # 1380215 G

Resume of Diana T. Jacob

PRESENT POSITION

Independent Real Property Appraiser, Author and Instructor; acts as an advisory consultant on real property appraisal both to independent practicing appraisers and school providers of appraisal education. Appraisal Compliance Manager for Appraisal Unlimited Management Group, LLC a TX Registered AMC #TX2000089, in that capacity I administratively review all appraisal reports for minimum compliance with USPAP and applicable secondary regulations. Texas Appraisal Licensing Certification Board (TALCB) Mentor; in my mentor capacity the disciplined appraisers, having gone through the investigative process due to a complaint, are given a specific number of hours required to spend with one of five mentors approved in the state of Texas. My job as a mentor has been to review the complaint findings and the appraisal and instruct those appraisers so as to enhance their skills and correct their deficiencies. I have served as one of those five.

APPRAISAL EXPERIENCE

Twenty Five plus Years' Experience in appraisal and review appraisal of Single Family and Multi-Family Residential, Vacant Land and Sites, and Commercial Property, eighteen years' experience in aiding Principals in their purchasing decisions, and aiding Agents and Brokers in marketing properties. In 2011-2012 until June 2013, I have worked with a firm known as ABC Appraisal Management as their appraisal compliance manager. After they sold I was hired by another AMC whom I currently continue the same type of service, i.e. administrative compliance reviews. I also work as a consulting appraiser for attorneys whose pending litigation need support when appraisal reports are part of their court cases.

MENTOR EXPERIENCE

Texas Appraisal Licensing Certification Board (TALCB) Mentor; in my past mentor capacity the disciplined appraisers, having gone through the investigative process due to a complaint, were given a specific number of hours required to spend with one of five mentors approved in the state of Texas. My role as a mentor was to review the complaint findings and the appraisal and instruct those appraisers so as to enhance their skills and correct their deficiencies. I had the privilege as being one of the original five at the inception of the TX Mentor Program.

PROFESSIONAL LICENSES AND CERTIFICATIONS

Texas General State Certified Appraiser #TX1380215
Georgia General State Certified Non-Resident Appraiser #207580
North Carolina General Certified Appraiser #A2994
Louisiana State Certified Residential Appraiser #R0537
Real Estate Broker (Inactive Status) (State of Louisiana since 1987)
Real Estate Instructor #648 (State of Louisiana since 1988)
Real Estate Agent License 1983-1986 (State of Louisiana)
AQB Certified USPAP Instructor #10022 (March 31, 2012)

OFFICES HELD

President Ex-Officio of the National Association of Master Appraisers 1993-94
President of the National Association of Master Appraisers 1992-93
President of LA Chapter, NAMA, 1991-92
National Advisory Board, NAMA 1991-92
President Elect, Louisiana Chapter, NAMA, 1991
National Vice Chairman, Legislative Information Committee, 1989-90

COURT ACKNOWLEDGED EXPERT APPRAISAL WITNESS

State Office of Administrative Hearing (SOAH), Austin, TX
North Carolina General Court, Brunswick County
United States District Court (Bankruptcy), Baton Rouge
19th Judicial District Court, East Baton Rouge Parish

FINANCIAL INSTITUTIONS SERVED

NationsBank, NationsBank Mortgage, Southern National Bank, Southern National Bank Mortgage, National Flood Insurance Program, Resolution Trust Corporation (RTC), Federal Deposit Insurance Corporation (FDIC), Federal Savings & Loan Insurance Corporation (FSLIC), United Carolina Bank Mortgage, First Citizens Trust, Centura, First Investors Bank, Hancock National Bank, City National Bank, Bank of the South, Bank of West Baton Rouge, Bank of New Roads, Louisiana DOTD Credit Union, COPO Credit Union, Merrill Lynch Relocation, Capitol Union Federal Savings Bank, SECOR Federal Savings Bank, City of New Orleans, Nike Corporation, Alpha Mortgage, etc.

MEMBERSHIPS and Associate Memberships PAST and PRESENT

Associate Member of the Association of Texas Appraisers 3 years
National Association of Master Appraisers (Designated Senior Member) No. 5125
National Association of Accredited Appraisal Review Council
National Association of Counselors
National Association of Realtors
Louisiana Association of Realtors

OVERVIEW OF PAST AND PRESENT LECTURES AND PRESENTATIONS GIVEN

Appeal for Appraisal Certification Testing Privilege, Louisiana
(Senate/House Commerce Oversight Committee, Baton Rouge, 1989)
Working with the HP-12C Calculator, Spring Conference NO, 1990
Senate Bill #659, Louisiana Realtors Association, Baton Rouge, 1990
Senate Bill #659, Louisiana Senate Commerce Committee, Baton Rouge, 1990
"14" Points" of Appraising Federal Related Transactions, 1991
Real Estate Mathematics Made Simple in Land Valuation, 1991
Endangered Species Act and the Appraiser, Las Vegas, 1994
FHA Adjustments Time and Money, ATA semi-annual meeting, Victoria Texas 2005
Inspecting the Subject, New Braunsfels, Texas 2006, ATA
28-Hr Series of Continuing Education for Columbia Institute since 2003 monthly (includes Analyzing the Subject, Scope of Work, USPAP 7-Hr Update, FHA, Cost Approach)-This series is offered in 30+ states of which I travel and teach one to two times monthly throughout the country
Featured Speaker at Valuation 2008 in Las Vegas, Nevada

STATE'S OF APPRAISAL INSTRUCTION EXPERIENCE

Washington, Nevada, Oklahoma, North Carolina, South Carolina, Mississippi, Ohio, Utah, Illinois, Iowa, Arkansas, Georgia, Texas, Washington D.C., Florida, Louisiana, Massachusetts, Pennsylvania, California, Missouri, Kentucky, Wisconsin, Arizona, Idaho, Michigan, Tennessee, South Dakota, Hawaii, VA, Maryland

MEMBERSHIPS and Associate Memberships PAST and PRESENT

Associate Member of the Association of Texas Appraisers 3 years
National Association of Master Appraisers (Designated Senior Member) No. 5125
National Association of Accredited Appraisal Review Council
National Association of Counselors
National Association of Realtors

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Featured Speaker at Valuation 2008 in Las Vegas, Nevada
Featured Speaker at Appraisal Summit in Las Vegas, Nevada 2012
Write it Write-Association of Texas Appraisers-Houston, New Braunsfels, Dallas 2012

VARIOUS PROPETY TYPES APPRAISED

Small-Income Single-Family Residential; Detached Single Family Residential; ,
Contaminated Residential Sites improved and unimproved, Golf Course Development;
Multi-Family Dwellings; Manufactured Residential Dwelling; Commercial Office Building;
Private School; Strip Shopping Center; Medical Office; Lumber Company; Office
Warehouse Center; Rural Vacant Land with Batture Rights; Contaminated Gasoline
Station under renovation after clean up; Gasoline Self Serve and Mini Mart Grocery
Store; Real Estate Office Building (Small and Large); Condominiums (Residential and
Commercial); Di-Minimis PUD; Historic French Quarter (New Orleans); Bar and Grill;
Hazardous Waste Disposal Truck Washing Facility; Apartment Complex; Private
Softball Field; Golf Course Community, Waterfront Restaurant, Subdivision
Developments, Religious Facility, Condemnation, Estate Valuation, Clubhouse, Day
Care Nursery, Partial Interest, Recreational Campground, etc.

LIST OF SCHOOLS OF REAL ESTATE SALES and APPRAISAL INSTRUCTION EXPERIENCE

I have logged in 200 + Hours of Annual Instruction of Appraisal Course each year since 1991 for various providers. Examples of various providers that have used my services are:

Pre-licensing Real Estate Sales Curriculum; Northwestern University, Natchitoches, LA 1998

Approved by North Carolina R.E. Commission as R.E. Appraisal Instructor
Courses Taught in North Carolina; General Levels 1, 2 & 3-Cape Fear Community College

Lincoln Graduate Center, 1991 – 2003 taught nationwide both pre-licensing and continuing education for residential and general level of knowledge

Certified Real Estate Instructor (#648) by Louisiana Real Estate Commission,
Certified to Teach: Instruments, Financing, Ownership, Brokerage, Valuation, Arithmetic, and Louisiana Real Estate Licensing Law 1988 - 1990

Instructor for Burk Baker School of Real Estate, beginning 1988-2006

Courses Taught: General Real Estate Principles and Practices and Appraisal Pre-License and Continuing Education

Sales Training Associate Broker with Sherwood Realty, 1988

Training Included: Real Estate Market Analysis, Financing, Estimating Closing Cost

2003 to present Real Estate Appraisal Schools Teaching Experience

Pre-Licensing and Continuing Education Real Estate Appraisal Courses

Bramlett School of Real Estate and Appraisal Georgia

Columbia Institute San Antonio (actively engaged as an instructor)

McKissock School of Real Estate Appraisal (actively engaged as an instructor)

Burk Baker School of Real Estate Baton Rouge

Pro-Educate New Orleans

Partial list of COURSES WRITTEN for SCHOOL PROVIDERS Yr. 2003 to Present

Residential Sales Approach-Deriving Adjustments

Write it Right

Rural Residential Appraisal

FHA and UAD

Facts, Figures and Formulas

Economic Principles and the Residential Appraisal Process Part A

Economic Principles and the Residential Appraisal Process Part B

Introduction into the Income Approach-A Study of Terms Analyses and Methodologies

A Residential Case Study into the Sales Comparison Approach

Studies and Analysis in the Residential Valuation Process

Introduction into the Residential Appraisal Process

Introduction into the Residential Appraisal Process-Part II Valuation Considerations

Writing a Summary Appraisal Report

Preparing the URAR-A Desk Reference to the Summary Appraisal Report

Reviewing the Residential Appraisal

Appraising REO and Foreclosure

Risky Markets Risky Business



AGENDA ITEM 4

Ratification of the Secretary of the Board's approval of the official record of the February 15, 2013, Board meeting.

RECOMMENDED MOTION

MOVED, that the Board ratify the Secretary of the Board's approval of the official record located on the Board's website for the February 15, 2013 Board Meeting.

AGENDA ITEM 5

Comments from members of the public regarding non-agenda items

AGENDA ITEM 6

Executive session to receive advice of counsel pursuant to Texas Government Code §551.071

Announcement by Chair to enter Executive Session:

The time is _____. The Board will now go into executive session on agenda item numbers 7-9 to receive advice of counsel concerning pending or contemplated litigation, settlement offers, and enforcement actions before the Board as authorized by the Texas Open Meetings Act, Tex. Gov't Code §551.071. We anticipate returning to open session in approximately ____ minutes.

Announcement by Chair upon return from Executive Session:

It is now _____(time) and the Board is back from executive session and reconvening in open session.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(a)

Discussion and possible action to approve agreed final order regarding complaint file number 09-083 (Jeffrey Lee Hoelsher, TX-1335416-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JEFFREY LEE HOELSCHER

TX-1335416-R

§
§
§
§
§

DOCKETED COMPLAINT NO.
09-083

§

§

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Jeffrey Lee Hoelscher (the "Respondent").

In order to conclude this matter, Jeffrey Lee Hoelscher 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1335416-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about May 22nd, 2007, Respondent appraised real property located at: 2706 Monte Grande Drive, San Juan, Hidalgo County, Texas 78589 ("the property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the 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 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 he did.

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 reports for the property:

USPAP Ethics Rule (Record Keeping) – Respondent violated the Ethics Rule because he failed to maintain work files containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provision;

USPAP Standards 1-4(f) & 2-2(b)(viii) – Respondent failed to consider and report any anticipated public and/or private improvements located on or off site. In particular a large water tower adjoined the property, but was not reported, nor was its potential impact on value analyzed;

USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;

USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 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 provide any support for his site value determinations in his report, did not summarize his reasoning supporting those determinations nor did he provide any documentary support for those conclusions in his work file;

USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) ; 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze, or reconcile the cost new of improvements and did not employ recognized methods and techniques correctly. Respondent failed to provide any support for his cost new of improvements determinations in his report, did not summarize his reasoning supporting those determinations nor did he provide any documentary support for those conclusions in his work file;

USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a)– Respondent failed to collect, verify, analyze, and reconcile comparable sales data adequately and did not correctly employ recognized methods and techniques in his sales comparison approach;

USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to analyze a listing of the subject current as of the effective date of the appraisal;

USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze a sale of the subject which occurred 43 days prior to the effective date of the appraisal; and,

USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) – For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing the methods and techniques correctly. This resulted in an inflated appraisal report that was not credible or reliable.

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

7

The parties enter into this consent order ("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)(3).
3. 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 for a period of 12 months, effective 5:00 p.m., May 17th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m., May 17th, 2013, the suspension is to be fully probated for 12 months ending May 17th, 2014,

subject to the following terms and conditions:

EDUCATION. On or before **November 17th, 2013**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

A minimum 7 classroom-hour course in Residential Sales: The Adjustment Process;

No examination shall be required for this course.

A minimum 7 classroom-hour course entitled, "Write it Right"; and,

No examination shall be required for this course.

REPORT WRITING. In conjunction with the below-noted, probated administrative penalty, on or before **November 24th, 2013** Respondent shall submit a separate, 1 page, written report for each of the 2 courses in which he:

(a) Describes and explains what he learned from the applicable course of mentorship period;

(b) Describes what was previously deficient with his work product; and,

(c) Describes what steps he will take in his appraisal practice going forward to avoid further violations of USPAP and state law.

MENTORSHIP. Respondent shall complete 10 hours of in-person mentorship conducted by a certified USPAP instructor approved by Board staff in accordance with the deadlines and schedule of topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor 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.

On or before **June 17th, 2013**, 5 hours of mentorship in sales comparison data analysis, with 2.5 of those hours dealing with analysis, methods and techniques related to adjustments and the other 2.5 hours dealing with selection of comparable sales;

On or before **August 17th, 2013**, 5 hours of mentorship in listing history, sales history and contract analysis and reporting, with 2.5 hours dealing with reconciling these different pieces of data amongst themselves and also reconciling this data with data from the sales comparison approach and 2.5 hours dealing with adequate discussion of the reasoning supporting the opinions and conclusions reached in an appraisal report; and,

REPORT WRITING. In conjunction with the below-noted, probated administrative penalty, on or before **August 27th, 2013** Respondent shall submit a separate, 1 page, written report for each of the 2 mentorship periods in which he:

(a) Describes and explains what he learned from the applicable course of mentorship period;

(b) Describes what was previously deficient with his work product; and,

(c) Describes what steps he will take in his appraisal practice going forward to avoid further violations of USPAP and state law.

LOGS. On or before **February 27th, 2014**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of **November 17th, 2013 to February 17th, 2014**. The log shall detail *all* real estate appraisal activities Respondent has conducted during that three month 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 period of probation within twenty days of receiving any such request;

NO TRAINEES. Respondent is prohibited from sponsoring, employing or using any appraiser trainees in his real estate appraisal activities during the

entire period of his 12 month probated suspension;

Fully and timely comply with all of the provisions of this Agreed Final Order; and,

Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IT IS FURTHER ORDERED that Respondent pay an administrative penalty in the amount of \$1,500 on or before June 7th, 2013. However, IT IS FURTHER ORDERED that the entire administrative penalty is to be fully probated subject to timely completion of all the terms contained in this agreed final order and satisfying the above-noted report writing obligations.

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 COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IN ADDITION, THE FULL ADMINISTRATIVE PENALTY SHALL BE DUE WITHIN 10 DAYS OF THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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 PENALTY 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR 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 5 day of April, 2013.


JEFFREY LEE HOELSCHER

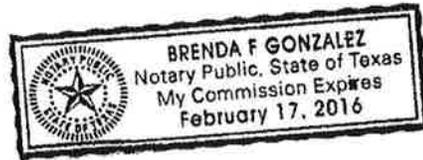


TED WHITMER, ATTORNEY FOR
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the
5th day of April, 2013, by JEFFREY LEE HOELSCHER, to
certify which, witness my hand and official seal.

Brenda Gonzalez
Notary Public Signature

Brenda F. Gonzalez
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day
of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____,
2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of
_____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(b)

Discussion and possible action to approve agreed final order regarding complaint file number 10-349 (Jose Luis Aguilar, TX-1334753-L).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOSE LUIS AGUILAR
TX-1334753-L

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DOCKETED COMPLAINT NO.
10-349

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Jose Luis Aguilar (the "Respondent").

In order to conclude this matter, Jose Luis Aguilar 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 Jose Luis Aguilar is a Texas state licensed real estate appraiser who holds certification number TX-1334753-L and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 6004 N. McColl Road, Edinburg, TX 78541 (the "property") on or about November 7, 2006.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 communicated assignment results that were misleading through the omission of significant material information and the commission of significant errors;
- b) USPAP Record Keeping Rule – Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Scope of Work; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required by this rule to obtain credible assignment results;
- d) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report significant and material information concerning the site description;
- e) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to provide adequate zoning information;
- f) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to provide evidence in his appraisal report or workfile that support his opinions and conclusions reported in the Neighborhood section of the appraisal report;
- g) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide his supporting rationale for his highest and best use determination;
- h) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
- i) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- j) 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 adequately and has not employed recognized methods and techniques in his sales comparison approach;
- k) USPAP 2-2(b)(viii) – Respondent failed to explain the exclusion of the income approach;
- l) USPAP Standards 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze all agreements of sale, options or listings of the subject current as of the effective date of the appraisal;

m) USPAP Standards 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used; and

n) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

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

7. The parties enter into the following 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)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting 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.

ORDER

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

1. **EDUCATION.** On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

- a. A classroom course in Residential Cost Approach, a minimum of fifteen (15) class hours, on or before May 17, 2014.
 - b. A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before May 17, 2014.
 - c. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.
2. **MENTORSHIP.** On or before May 17, 2014. Respondent shall complete sixteen (16) 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 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.**
 - a. Sixteen (16) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.
 3. **EXPERIENCE LOG.** On or before May 17, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of twelve (12) months starting after the due dates for the education and mentorship (from May 17, 2014 to May 17, 2015). The log shall detail *all* real estate appraisal activities Respondent has conducted during that twelve (12) month 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 twelve (12) month period within twenty days of receiving any such request.
 4. **ADMINISTRATIVE PENALTY.** On or before June 6, 2013. Pay to the Board an administrative penalty of two thousand five hundred dollars (\$2,500.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before June 6, 2013).
 5. Fully and timely comply with all of the provisions of this Agreed Final Order; and
 6. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE

SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH 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, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK 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.

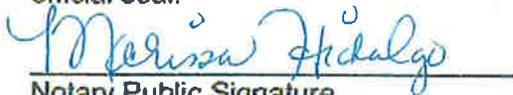
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 29th day of March, 2013.



JOSE LUIS AGUILAR

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 29th day of March, 2013, by JOSE LUIS AGUILAR, to certify which, witness my hand and official seal.



Notary Public Signature

Marissa Hidalgo

Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(c)

Discussion and possible action to approve agreed final order regarding complaint file number 12-292 (John E. Maher, TX-1338562-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOHN E. MAHER
TX-1338562-R

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DOCKETED COMPLAINT NO. 12-292

AGREED FINAL ORDER

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

In order to conclude this matter, Respondent 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1338562-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about September 17, 2010, Respondent appraised real property located at: 2908 Patton Drive, Melissa, Texas 75454 ("the property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the 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 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.
5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.
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) USPAP Ethics Rule -- Respondent violated the record keeping provisions of the Ethics Rule because he failed to maintain a work file containing all data, information, and documentation necessary to support his opinions and conclusions.

Respondent also failed to disclose any current/prospective interest and services regarding the subject property within the 3 year period immediately preceding acceptance of the assignment;

- b) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) - Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of similar nature;
- c) USPAP Standards 1-3(a) & 2-2(b)(viii) - 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;
- d) USPAP Standards 1-3(b) & 2-2(b)(ix) - Respondent failed to develop an opinion of the highest and best use;
- e) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) - Respondent failed to collect, verify, analyze and reconcile the of new improvements, failed to use an appropriate method or technique to develop site value, failed to provide support in his report or work file for this determination and failed to employ recognized methods and techniques correctly in his cost approach;
- f) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) - Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data and failed to employ recognized methods and techniques correctly in his sales comparison approach;
- g) USPAP Standards 2-2(b)(viii) - Respondent failed to explain and support the exclusion of the income approach;
- h) USPAP Standards 1-5(a) & 2-2(b)(viii) - Respondent failed to analyze the agreement of sale for the subject as of the effective date of the appraisal and a copy of that contract was not contained in Respondent's work file; and,
- i) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing t methods and techniques correctly. This resulted in an appraisal report that was not credible or reliable.

7. Respondent omitted material facts and made material misrepresentations in his appraisal report as detailed above.

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)(3).
3. Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(9).
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 for a period of 6 months, effective **5:00 p.m., May 17th, 2013**.

IT IS FURTHER ORDERED that beginning at **5:00 p.m., May 17th, 2013**, the suspension is to be fully probated for 6 months ending **November 17th, 2013**, subject to the following terms and conditions:

1. **EDUCATION.** On or before **July 17th, 2013**. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum 15 classroom-hour course in USPAP; and,
 - B. A minimum 7 classroom-hour course in the Sales Comparison Approach.
 - i. No examination shall be required for this course
2. **MENTORSHIP.** On or before **July 17th, 2013** Respondent shall complete **15 hours** of in-person mentorship conducted by a certified USPAP instructor approved by Board staff in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor 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. **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.**

3. **LOGS.** On or before **October 11th, 2013**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of September 1st, 2013 to October 1st, 2013. The log shall detail **all** real estate appraisal activities Respondent has conducted during that one month 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 period of probation within twenty days of receiving any such request;
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

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. RESPONDENT SHALL ALSO BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY. The Board will notify the Respondent in writing of the failure to comply, the immediate assessment of the administrative penalty and the immediate suspension of the license, certification, authorization or registration.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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.

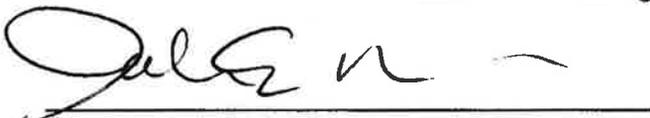
I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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 28 day of MARCH, 2013.



JOHN E. MAHER

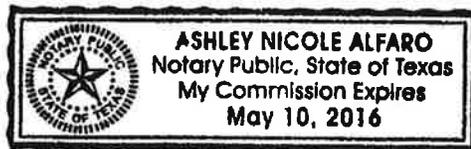


TED WHITMER, ATTORNEY FOR
JOHN E. MAHER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of March, 2013, by JOHN E. MAHER, to certify which, witness my hand and official seal.

Ashley Nicole Alfaro
Notary Public Signature

Ashley Nicole Alfaro
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(d)

Discussion and possible action to approve agreed final order regarding complaint file number 13-068 (Robert Kennedy Arnold, TX-1324236-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ROBERT KENNEDY ARNOLD
TX-1324236-R

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DOCKETED COMPLAINT NO.
13-068

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Robert Kennedy Arnold (the "Respondent").

In order to conclude this matter, Respondent 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.

FINDINGS OF FACT

1. Respondent Robert Kennedy Arnold is a Texas state certified residential real estate appraiser who holds certification number TX-1324236-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 909 West Fischer, Sherman, Texas (the Property") on or about March 25th, 2011.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the 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 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 Respondent submitted.
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 (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;

- b) USPAP Scope of Work Rule and 1-2(h); 2-2(b)(vii) – Respondent has failed to comply with the scope of work rule because he did not perform the research and analyses necessary to develop credible assignment results supported by relevant evidence and logic and misrepresented his scope of work;
- c) USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent failed to indicate his supporting reasoning for his determination of reasonable exposure time linked to the value determination he made;
- d) USPAP Standards 1-2(f) or (g); 2-1(c) & 2-2(b)(x) – Respondent failed to disclose extraordinary assumptions clearly and accurately, which directly affected analyses, opinions and conclusions contained in Respondent's appraisal report for the property;
- e) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to adequately identify and report the site and improvement(s) description;
- f) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to analyze and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, and ordinances or other items of a similar nature; Respondent failed to identify and analyze the effect on use and value of existing land use regulations;
- g) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to develop an opinion of the highest and best use which was credible;
- h) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) -- Respondent failed to adequately collect, verify, and reconcile comparable sales data;
- i) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to disclose the analysis and reasoning that supported his site value determination and failed to employ recognized methods and techniques;
- j) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent failed to provide support for his determination of the cost new of improvements and failed to employ recognized methods and techniques;
- k) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques;
- l) USPAP Standards 1-1(a) & 2-2(b)(viii) – Respondent failed to explain and support his exclusion of the income approach adequately. Due to the number of rentals found in the area during the applicable time frame, the income approach was necessary for credible assignment results and should have been conducted;

- m) USPAP Standards 1-4(c)(i) & 2-2(b)(viii); 1-1(a) & 1-4(c) – Respondent failed to collect, verify, analyze and reconcile comparable rental data to estimate the gross income potential of the property;
- n) USPAP Standards 1-4(c)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(c) – Respondent failed to collect, verify, analyze, and reconcile comparable data to estimate capitalization and/or discount rates;
- o) USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to analyze and disclose 2 versions of the contract of sale for the property, including a lower contract price;
- p) USPAP Standards 1-6(a) & (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; and,
- q) USPAP Standards 1-1(a), 1-1(b), 1-1(c); and 2-1(a) – Respondent produced a misleading appraisal report 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 an appraisal report that was not credible or reliable.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Act.
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 made material misrepresentations and omissions of material fact in violation of 22 TEX. ADMIN. CODE § 153.20(a)(12).
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 for a period of 24 months, effective **5:00 p.m. (CST) on May 17, 2013**.

IT IS FURTHER ORDERED that beginning at **5:00 p.m. (CST) on May 17, 2013**, the suspension is to be fully probated for the entire 24 month period ending **May 17, 2015**, subject to the following terms and conditions:

1. **EDUCATION.** On or before **February 17, 2014**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes require in-class attendance and must have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
 - A. A minimum 15 classroom-hour course in USPAP;
 - B. A minimum 7 classroom-hour course in Residential Case Studies; and,
 - i. No examination shall be required for this course.
 - C. A minimum 7 classroom-hour course in Residential Sales: The Adjustment Process;
 - i. No examination shall be required for this course.
 - D. **REPORT WRITING.** On or before **February 27, 2014** Respondent shall submit a separate, 1 page, written report for each of the 3 education courses in which he:
 - (a) Describes and explains what he learned from the course;
 - (b) Describes what was previously deficient with his work product; and,
 - (c) Describes what steps he will take in his appraisal practice going forward to avoid further violations of USPAP and state law.
2. **MENTORSHIP.** On or before **August 17, 2013**, Respondent shall complete 20 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 on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling mentorship in order to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
 - A. 10 hours of mentorship on or before **June 17, 2013**, with 5 of those hours dealing with highest and best use analysis and reporting; and,
 - B. 10 hours of mentorship on or before **August 17, 2013**.

C. **REPORT WRITING.** On or before **August 27, 2013** Respondent shall submit a separate, 1 page, written report for each of the 2 mentorship periods in which he:

(a) Describes and explains what he learned from the mentorship;

(b) Describes what was previously deficient with his work product; and,

(c) Describes what steps he will take in his appraisal practice going forward to avoid further violations of USPAP and state law.

3. **LOGS.** On or before **October 27, 2014**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of **July 17, 2014 to October 17, 2014**. The log shall detail **all** real estate appraisal activities Respondent has conducted during that 3 month 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 period of probation within twenty days of receiving any such request.
4. **NO TRAINEES.** Respondent is prohibited from sponsoring, employing or using any appraiser trainees in his real state appraisal activities during the entire period of his 2 year probated suspension.
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. Comply with all provisions of the Act, the Rules, and USPAP in the future or be subjected to further disciplinary action.

IT IS FURTHER ORDERED that Respondent shall pay an administrative penalty in the amount of \$2,500.00 on or before **June 7, 2013**. However, IT IS FURTHER ORDERED that \$1,500.00 of this administrative penalty is to be fully probated subject to timely completion of all the terms contained in this agreed final order and satisfying the above-noted report writing obligations. IT IS FURTHER ORDERED that Respondent shall pay the remaining \$1,000.00, non-probated portion of the administrative penalty on or before **June 7, 2013**.

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. IN ADDITION, THE FULL ADMINISTRATIVE PENALTY SHALL BE DUE WITHIN 10 DAYS OF THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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 PENALTY 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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.

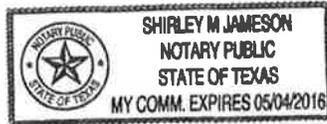
Signed this 28 day of MARCH, 2013.

Robert Kennedy Arnold
ROBERT KENNEDY ARNOLD

Ted Whitmer
TED WHITMER, ATTORNEY FOR
ROBERT KENNEDY ARNOLD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28 day of March, 2013, by ROBERT KENNEDY ARNOLD, to certify which, witness my hand and official seal.

Shirley M Jameson
Notary Public Signature
SHIRLEY M JAMESON
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(e)

Discussion and possible action to approve agreed final order regarding complaint file number 13-077 (Kerry Dane Osborne, TX-1334585-L).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

KERRY DANE OSBORNE
TX-1334585-L

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DOCKETED COMPLAINT NO.
13-077

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the license of Kerry Dane Osborne (the "Respondent").

In order to conclude this matter, Kerry Dane Osborne 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 Kerry Dane Osborne is a Texas state licensed real estate appraiser who holds certification number TX- 1334585-L and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 5430 Parry Avenue, Dallas, Texas 75223 (the "property") on or about August 16th, 2012.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 the appraisal report for the property:
 - a) USPAP Ethics Rule -- Respondent violated the Ethics Rule because he knowingly communicated assignment results in a misleading and fraudulent manner;

- b) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Competency Rule – Respondent violated the Competency Rule because he did not possess the credential required to complete the assignment;
- d) USPAP Scope of Work – Respondent violated the Scope of Work Rule because he did not address the assignment condition of compliance with FHA regulations;
- e) USPAP Standards 1-2(b) & 2-2(i) – Respondent failed to identify the appraisal management company that ordered the appraisal;
- f) USPAP Standards 1-2(f) or 1-2(g), 1(c) & 2-2(x) – Respondent relied on data without verification, which implies reliance on extraordinary assumptions;
- g) USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-1(b) – Respondent failed to identify and report significant and material information concerning the site description and improvements description adequately;
- h) USPAP Standards 1-2(e)(i) & 2-2(iii) – Respondent failed to provide an adequate description of the improvements;
- i) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to provide evidence in his appraisal report or workfile that he considered easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- j) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to provide evidence in his appraisal report or workfile that support his opinions and conclusions reported in the Neighborhood section of the appraisal report;
- k) USPAP Standards 1-3(b) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to provide his supporting rationale for his highest and best use determination;
- l) USPAP Standards 1-4(b)(i) & 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 provide supporting documentation, analysis or data for his determination;
- m) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- n) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze the sales contract;

- o) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to identify or analyze sales of the subject property within three (3) years prior to the effective date of the appraisal;
 - p) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used;
 - q) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable; and
 - r) USPAP Standards 2-3 & 2-2(xi) – Respondent signed the appraisal report using the signature of another appraiser without authorization and failed to acknowledge his significant real property appraisal assistance in preparing a FHA appraisal.
6. Respondent failed to produce his complete workfile within 20 days of notice from the Board.
7. Respondent accepted and completed an FHA assignment, which he lacked the qualifications and competency to complete, and was not a FHA roster appraiser.
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 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(a)(24) by failing to provide a complete workfile within 20 days of notice from the Board.
4. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(1), (a)(7), (a)(20), and (a)(22) by accepting and completing an FHA assignment, even though he was not a FHA roster appraiser, was not qualified and was not competent.
5. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by misrepresenting and omitting material facts.

6. 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**:

1. **EDUCATION.** On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17th, 2014.
 - b. A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before May 17th, 2014.
 - c. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17th, 2014.
2. **MENTORSHIP.** On or before May 17th, 2014. Respondent shall complete twelve (12) 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 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.**
 - a. Twelve (12) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.
3. **EXPERIENCE LOG.** On or before May 17th, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of twelve (12) months starting after the due dates for the education and mentorship (from May 17th, 2014 to May 17th, 2015). The log shall detail *all* real

estate appraisal activities Respondent has conducted during that twelve (12) month 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 period of probation within twenty days of receiving any such request.

4. **ADMINISTRATIVE PENALTY.** On or before June 6th, 2013. Pay to the Board an administrative penalty of five thousand dollars (\$5,000.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before June 6th, 2013).
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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.

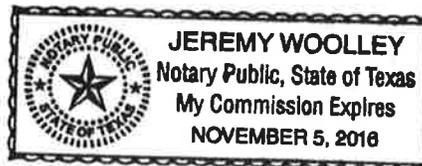
Signed this 18 day of March, 2013.


KERRY DANE OSBORNE


TED WHITMER, ATTORNEY FOR
KERRY DANE OSBORNE

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 18 day of March, 2013, by KERRY DANE OSBORNE, to certify which, witness my hand and official seal.


Notary Public Signature



Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this ____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this ____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(f)

Discussion and possible action to approve agreed final order regarding complaint file number 10-309 (Diana Frances Bratton, TX-1324411-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DIANA FRANCES BRATTON
TX-1324411-R

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DOCKETED COMPLAINT NO.
10-309

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Diana Frances Bratton (the "Respondent").

In order to conclude this matter, 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.

FINDINGS OF FACT

1. Respondent Diana Frances Bratton is a Texas state certified residential real estate appraiser who holds certification number TX-1324411-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 4801 Hidden Creek Lane, Spicewood, Texas 78669 (the property") on or about March 1st, 2009.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the 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 she submitted.
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 (record keeping) -- Respondent violated the Ethics Rule because she failed to maintain a work file containing all data, information and

documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;

- b) USPAP Scope of Work Rule and 1-2(h) – Respondent has failed to comply with the scope of work rule because she did not perform the research and analyses necessary to develop credible assignment results supported by relevant evidence and logic and misrepresented her scope of work;
- c) USPAP Standards 1-4(a) & 1-4(b) – Respondent failed to understand and correctly employ recognized methods and techniques to produce a credible appraisal;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to adequately identify and report improvement(s) description;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, and ordinances or other items of a similar nature;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand and market area trends);
- g) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to develop an opinion of the highest and best use;
- h) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) -- Respondent failed to adequately collect, verify, and reconcile comparable sales data;
- i) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value and failed to disclose the analysis and reasoning that supported her site value determination;
- j) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent failed to provide support for her determination of the cost new of improvements, misrepresented her source of the cost new of improvements, misrepresented the cost new of improvements and failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- k) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because she failed to discuss, analyze, reconcile or calculate correctly any accrued depreciation;

- l) USPAP Standards 1-5(b) & 2-2(b)(viii); 1-1(b) – Respondent failed to analyze all sales of the subject within 3 years prior to the effective date of the appraisal;
- m) USPAP Standards 1-6(a) & (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; and,
- n) USPAP Standards 1-1(a), 1-1(b), 1-1(c); and 2-1(a) – Respondent produced a misleading appraisal report 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 she had a duty to analyze and reconcile. This resulted in an appraisal report that was not credible or reliable.

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)(3).
3. Respondent made material misrepresentations and omissions of material fact in violation of 22 TEX. ADMIN. CODE § 153.20(a)(9).
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 for a period of 12 months, effective **5:00 p.m., May 17th, 2013**.

IT IS FURTHER ORDERED that beginning at **5:00 p.m., May 17th, 2013**, the suspension is to be fully probated for the entire 12 month period ending **May 17th, 2014**, subject to the following terms and conditions:

1. **EDUCATION.** On or before **November 17th, 2013**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure

adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

- A. A minimum 15 classroom-hour course in USPAP; and
 - B. A minimum 8 classroom-hour course in Sales Comparison Approach;
 - i. No examination shall be required for this course.
2. **MENTORSHIP.** On or before **July 1st, 2013**, Respondent shall complete 14 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 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.
- A. 8 hours of mentorship in sales comparison data analysis, with 4 of those hours dealing with analysis, methods and techniques related to adjustments;
 - B. 3 hours of mentorship in site analysis; and,
 - C. 3 hours of mentorship in cost of improvements and depreciation analysis;
3. **LOGS.** On or before **February 24th, 2014**, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of November 17th, 2013 to February 17th, 2014. The log shall detail **all** real estate appraisal activities Respondent has conducted during that three month 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 her appraisal reports and work files for any appraisal assignments Respondent performs during the course of this period of probation within twenty days of receiving any such request. The Board shall request no more than 2 such reports and work files;
4. **NO TRAINEES.** Respondent is prohibited from sponsoring, employing or using any appraiser trainees in her real state appraisal activities during the entire period of her 1 year probated suspension.
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IT IS FURTHER ORDERED that Respondent pay an administrative penalty in the amount of \$1,200.00 on or before June 7th, 2013. However, IT IS FURTHER ORDERED that this

\$1,200.00 administrative penalty is to be fully probated subject to timely completion of all the terms contained in this agreed final order.

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.

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 web site.

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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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 21 day of MARCH, 2013.

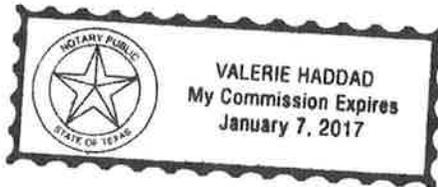
Diana Frances Bratton
DIANA FRANCES BRATTON

Ted Whitmer
TED WHITMER, ATTORNEY FOR
DIANA FRANCES BRATTON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 21 day of March, 2013, by DIANA FRANCES BRATTON, to certify which, witness my hand and official seal.

Valerie Haddad
Notary Public Signature

Valerie Haddad
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



STUDENT TRANSCRIPT

Diana Bratton
 1009 Porpoise Street
 Lakeway, TX 78734

Continuing Education

Course Title: **Residential Sales Comparison-The Adjustment Process, No. 151**
 Hours: **8**
 Location: **New Braunfels, TX**
 Compl Date: **2/23/2013**

State Approval Number(s):

To be completed by student if applicable:

Certification / Lic No(s). _____

This is to certify under penalty of perjury that the student named above has satisfactorily completed the described course in accordance with the rules and requirements of the Columbia Institute and any agency listed. Satisfactory completion means having been in attendance 100 per cent of the scheduled time and having completed all required lessons; and for distance learning courses, the student satisfactorily completed all lessons. For appraiser qualifying course credit, satisfactory completion also means **HAVING PASSED WITH EXAMINATION.**

School Official: Virginia H. Coy



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(g)

Discussion and possible action to approve agreed final order regarding complaint file number 11-410 (Richard Allen Merrill, TX-1325278-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

RICHARD ALLEN MERRILL
TX-1325278-R

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DOCKETED COMPLAINT NO.
11-410

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Richard Allen Merrill (the "Respondent").

In order to conclude this matter, Richard Allen Merrill 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 Richard Allen Merrill is a Texas state licensed real estate appraiser who holds certification number TX-1325278-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 8719 Ilona Lane, Houston, Texas 77025 (the "property") on or about October 23rd, 2006.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 the appraisal report for the property:

- a) USPAP Ethics Rule -- Respondent communicated assignment results that were misleading through the omission of significant material information and the commission of significant errors;
- b) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Scope of Work -- Respondent failed to support his work with the relevant evidence and logic required by this rule to obtain credible assignment results;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) -- Respondent failed to identify and report significant and material information concerning the site description;
- e) USPAP Standards 1-2(e)(i) & 2-2(iii) -- Respondent failed to provide an adequate description of the improvements;
- f) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) -- Respondent failed to provide adequate zoning information;
- g) USPAP Standards 1-3(a) & 2-2(b)(viii) -- Respondent failed to provide evidence in his appraisal report or workfile that support his opinions and conclusions reported in the Neighborhood section of the appraisal report;
- h) USPAP Standards 1-3(b) & 2-2(b)(ix) -- Respondent failed to provide his supporting rationale for his highest and best use determination;
- i) USPAP Standards 1-4(b)(i) & 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 provide supporting documentation, analysis or data for his determination;
- j) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) -- Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- k) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) -- Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
- l) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) -- Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- m) USPAP 2-2(b)(viii) -- Respondent failed to explain the exclusion of the income approach;

- n) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze all agreements of sale, options or listings of the subject current as of the effective date of the appraisal;
- o) USPAP Standards 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used; and
- p) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

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

7. The parties enter into the following 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)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting 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.

ORDER

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

- 1. **EDUCATION.** On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the**

course in the event of course cancellation or rescheduling by the course provider.

- a. A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17th, 2014.
 - b. A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before May 17th, 2014.
2. **MENTORSHIP.** On or before May 17th, 2014. Respondent shall complete sixteen (16) 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 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.**
- a. Sixteen (16) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
4. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH 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, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK 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 14 day of March, 2013.

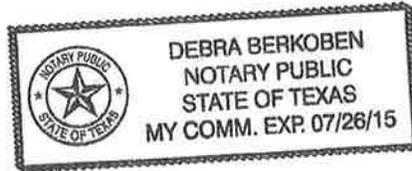


RICHARD ALLEN MERRILL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 14 day of March, 2013, by RICHARD ALLEN MERRILL, to certify which, witness my hand and official seal.

Debra Berkoben
Notary Public Signature

Debra Berkoben
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(h)

Discussion and possible action to approve agreed final order regarding complaint file number 12-102 (Michael Joseph Kalil, TX-1323436-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

MICHAEL JOSEPH KALIL
TX-1323436-R

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DOCKETED COMPLAINT NO.
12-102

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of MICHAEL JOSEPH KALIL (the "Respondent").

In order to conclude this matter, MICHAEL JOSEPH KALIL 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, MICHAEL JOSEPH KALIL, is a Texas state certified residential real estate appraiser who holds certification number TX-1323436-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 83 Westwood, Brenham, Texas 77833 (the "property") on or about October 7th, 2011.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts and/or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:
 - a) USPAP Ethics Rule (conduct) -- Respondent violated the Ethics Rule because he knowingly communicated assignment results in a misleading manner through the

omission of material information and commission of significant errors; performed the assignment in a grossly negligent manner; and failed to affix his signature to certify recognition and acceptance of his USPAP responsibilities;

- b) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to include a true copy of the report and maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
 - c) USPAP Competency Rule – Respondent violated the Competency Rule because he was not a general certified real estate appraiser and therefore not permitted by law to conduct commercial real estate activities such as the appraisal on the property. Respondent was not qualified/competent to complete the commercial/non-residential appraisal on the property. Specifically, Respondent lacked the ability to properly identify the problem to be addressed, the knowledge and experience to complete the assignment competently, and recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment;
 - d) USPAP Scope of Work Rule – Respondent violated the Scope of Work Rule because his appraisal report failed to support his work with the relevant evidence and logic required by this rule to obtain credible assignment results;
 - e) USPAP Standards 1-2(b) & 2-2(b)(i) – Respondent failed to identify the intended users of the appraisal report;
 - f) USPAP Standards 1-2(b) & 2-2(b)(ii) -- Respondent failed to identify and report the intended use of the appraisal report;
 - g) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and summarize the physical and economic property characteristics;
 - h) USPAP Standards 1-4(f) & 2-2(b)(viii) – Respondent failed to analyze or report any anticipated public and/or private improvements on or off the site and analyze any effect on value on anticipated improvements;
 - i) USPAP Standards 2-2(b)(xi), and 2-3 – Respondent failed to include a signed certification in his appraisal report; and
 - j) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained substantial errors of omission or commission by not employing correct methods and techniques. Respondent's careless and negligent appraisal services resulted in an appraisal report that was not credible or reliable.
6. Respondent conducted commercial/non-residential real estate appraisal activity for the property, even though he is only a certified residential real estate appraiser and lacks the appropriate credential level to perform such work

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

8. The parties enter into the following 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)(3).

3. Respondent has violated 22 TEX. ADMIN. CODE §§ 153.8(c), 153.20(a)(1), (7), (18), (19), and (20) by conducting commercial/non-residential real estate appraisal activity for the property.

4. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting and omitting material facts.

5. 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**:

1. **EDUCATION.** On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17th, 2014.

2. **MENTORSHIP.** On or before May 17th, 2014. Respondent shall complete four (4) 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 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.**

- a. Four (4) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.
3. **ADMINISTRATIVE PENALTY.** On or before June 6th, 2013. Respondent shall pay to the Board an administrative penalty of four thousand dollars (\$4,000.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before June 6th, 2013).
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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.

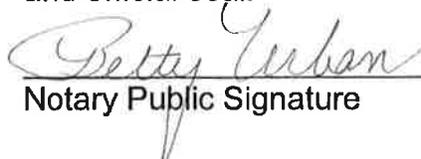
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

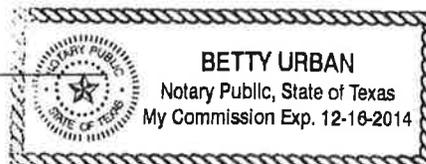
Signed this 5 day of March, 2013.


MICHAEL JOSEPH KALIL


TED WHITMER, ATTORNEY FOR
MICHAEL JOSEPH KALIL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 5 day of March, 2013, by MICHAEL JOSEPH KALIL, to certify which, witness my hand and official seal.


Notary Public Signature



Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(i)

Discussion and possible action to approve agreed final order regarding complaint file numbers 11-276 & 11-247 (Carolyn Marie Moody, TX-1324186-G).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

CAROLYN MARIE MOODY
TX-1324186-G

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DOCKETED COMPLAINT NO.
11-276 & 11-247

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AGREED FINAL ORDER

On the 15th day of March, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the license of Carolyn Marie Moody (the "Respondent").

In order to conclude this matter, Respondent 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 in order to avoid the costs of litigation.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds license number TX-1324186-G, and was licensed by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property located at:
 - a. 1753 County Road 2330, Pittsburg, Texas 75686 (the "1753 Property"); and
 - b. 506 Greenhill Park Avenue, Mount Pleasant, Texas 75455 (the "506 Property") (collectively, the "Properties").
3. Thereafter two complaints were filed with the Board. The complaints alleged Respondent produced appraisal reports for the Properties that did not conform to the 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 notified Respondent of the nature of the allegations involved and Respondent was afforded an opportunity to respond to the allegations in the complaints. Respondent was also requested to provide certain documentation to the Board, which she submitted to the Board.
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 the appraisal reports for the properties:

- a) USPAP Ethics Rule (Record Keeping) – Respondent violated the Ethics Rule because she communicated assignment results in a misleading manner through the omission and commission of errors that significantly affect the results and conclusions in the reports and she failed to maintain work files containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provision;
- b) USPAP Standards 1-2(e)(i) & 2-2(iii) – Respondent failed to adequately identify and report the site description and misrepresented the reported improvement(s) description adequately;
- c) USPAP Standards 1-2(e)(iv) & 2-2(viii) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, and/or other items of a similar nature;
- d) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), as she failed to provide documentation and supporting data pertaining to the property's neighborhood characteristics;
- e) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in her reports a brief summary of her rationale for her determination of the properties' highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value in her appraisals or workfiles;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of site value determination, and did not provide supporting documentation or data for her determination, and no summary of her analysis and supporting rationale, for the site value determination;
- h) USPAP Standards 1-4(b)(ii) & 2-2(viii) – Respondent has failed to collect, verify, analyze, and reconcile the cost of new improvements;
- i) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide documentary support or the required analysis for her determination of the cost new of improvements, failed to employ recognized methods and techniques;
- j) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in her sales comparison approach;

- k) USPAP Standards 2-2(viii) – Respondent failed to explain and support the exclusion of income approach;
- l) USPAP Standards 1-5(b) & 2-2(viii) – Respondent failed to analyze all sales of the subject within three years prior to the effective date of the appraisal;
- m) USPAP Standards 1-6(a) & (b) & 2-2(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability and/or suitability of the approaches;
- n) USPAP Standards 1-1(a) – Respondent failed to be aware of or understand and correctly employ recognized methods and techniques to produce a credible appraisal;
- o) USPAP Standards 1-1(b) – Respondent failed to comply by committing a substantial error of omission and/or commission that significantly affects the appraisal;
- p) USPAP Standards 1-1(c) – Respondent failed to comply by rendering appraisal services in a careless and/or negligent manner;
- q) USPAP Standards 2-1(a) – Respondent failed to present the appraisal report clearly and accurately in a manner that is not misleading;
- r) USPAP Standards 2-1(b) – Respondent failed to provide sufficient information in their report to enable the intended users of the appraisal to understand the report properly.

6. Respondent made material misrepresentations and omissions of material fact with respect to her appraisal of the properties as detailed above.

7. The parties enter into this consent order (the "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. 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**:

1. **EDUCATION.** On or before March 17th, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in Highest and Best Use and Market Data Analysis, a minimum of seven (7) class hours, on or before March 17th, 2014;
 - b. A classroom course in Residential Sales: The Adjustment Process, a minimum of seven (7) class hours, on or before March 17th, 2014; and
 - c. A classroom course in Site Valuation, a minimum of seven (7) hours, on or before March 17th, 2014.
2. **MENTORSHIP.** On or before May 17th, 2014, and only after completion of the aforementioned Education, 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 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.

- a. Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
4. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH 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, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK 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 15th day of March, 2013.

Carolyn Marie Moody
CAROLYN MARIE MOODY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15th day of March, 2013, by CAROLYN MARIE MOODY, to certify which, witness my hand and official seal.

Shannon Melton
Notary Public Signature
Shannon Melton
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15 day of March, 2013.



Mark Mrnak, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(j)

Discussion and possible action to approve agreed final order regarding complaint file numbers 12-231 & 13-090 (Pamela F. Newkirk, TX-1333126-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

PAMELA F. NEWKIRK
TX-1333126-R

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DOCKETED COMPLAINT NO. 12-231
& 13-090

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Pamela F. Newkirk (the "Respondent").

In order to conclude this matter, 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1333126-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about September 29th, 2008, Respondent appraised real property located at: 9228 Pinehaven Drive, Dallas, Texas ("the property").
3. Thereafter two complaints were filed with the Board. Both complaints alleged that the Respondent produced an appraisal report for the property that did not conform to the 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 notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board, which she did
5. The parties enter into this consent order ("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)(3).
3. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.
4. 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 violated the record keeping provisions of the Ethics Rule because she failed to maintain a work file containing all data, information, and documentation necessary to support her opinions and conclusions;
 - b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to identify and report the site and improvement(s) description adequately, including the nature of the property's zoning, the additional square footage added to the property and physical deficiencies or adverse conditions contained within the property;
 - c) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), misrepresented the one-unit housing price range, misrepresented that the market was stable when in fact the market was declining significantly and did not disclose and analyze the significant present of REO sales in this area. She also failed to provide supporting documentation and a summary of her reasoning in support of these required analyses, conclusions and determinations which are necessary to reach a credible and reliable market value determination;
 - d) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in her reports a brief summary of his rationale for his determination of the properties' highest and best use. Due to the additional square footage added on to the improvements, the property suffered from obsolescence because it was significantly larger than other properties in the area. However this significant issue, which impacted highest and best use and marketability was not analyzed and reported by Respondent;
 - e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to summarize her supporting rationale for her site value determination, nor provide any supporting documentation in the work file;

- f) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) -- Respondent did not collect, verify, analyze and reconcile accrued depreciations, including the property's super adequate gross living area size, physical obsolescence stemming from structural problems and other functional obsolescence attributable to the poor function of the added living area. In addition, Respondent incorrectly calculated depreciation and used incorrect figures when making these determinations. In general, recognized methods and techniques were not employed in the analysis of depreciation as it relates to the cost approach;
- g) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in her sales comparison approach. Respondent has not provided supporting documentation nor her reasoning and a summary of her analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales she did use, and did not discuss his analysis and reasoning behind the adjustments she made or elected not to make;
- h) USPAP Standards 1-4(c)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(c) – Respondent failed to collect, verify, analyze and reconcile comparable data to estimate capitalization and/or discount rates and did not provide data supporting her gross rent multiplier determination. In general, Respondent did not employ recognized methods and techniques correctly;
- i) USPAP Standards 1-5(a) & 2-2(b)(viii) ; 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to disclose and analyze the contract of sale and reconcile that information and data and failed to provide a summary of her supporting reasoning and analysis of all of this information and reconciliation;
- j) USPAP Standards 1-5(b) & 2-2(b)(viii); 1-1(b); 1-6(a) & 2-2(b) & 2-2(b)(viii) – Respondent made material misrepresentations and omitted material facts concerning a prior sale of the property that occurred two months earlier and failed to analyze and reconcile this significant and material information (including summarizing any reasoning supporting any analyses, opinions and conclusions she may have made and failing to provide work file documentation in support of any analyses, opinions and conclusions she may have made) within the 3 years prior to the effect date of each of the appraisal report Respondent prepared for the property; and,
- k) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

ORDER

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

1. **EDUCATION.** On or before **November 17th, 2013**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum 7 classroom-hour course in in the Sales Comparison Approach;
 - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before **August 17th, 2013**, Respondent shall complete 8 hours of in-person mentorship conducted by a certified USPAP instructor approved by Board staff in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor 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.
 - A. 4 of these hours shall address analysis, methods and techniques related to adjustments and the sales comparison approach; and,
 - B. 4 of these hours shall address analysis, methods and techniques related to depreciation and obsolescence.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
4. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

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 AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE IMMEDIATELY SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE

PENALTY HAS BEEN RECEIVED BY THE BOARD. Payment of the \$1,000 administrative penalty must be in certified funds. The Board will notify the Respondent in writing of the failure to comply, the immediate assessment of the administrative penalty and the immediate suspension of the license, certification, authorization or registration.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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. If Respondent's license, certification, authorization or registration is suspended on such a basis, the suspension shall remain in effect until such time as Respondent is in full compliance with the terms of this Order and has provided adequate documentation of that compliance 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.

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. 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 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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 25 day of March, 2013.

Pamela F. Newkirk
PAMELA F. NEWKIRK

T. Whitmer
TED WHITMER, ATTORNEY FOR
PAMELA F. NEWKIRK

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25 day of March, 2013, by PAMELA F. NEWKIRK, to certify which, witness my hand and official seal.

B. Garrett
Notary Public Signature
Brandon Garrett
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



STUDENT TRANSCRIPT

Continuing Education

Pamela Newkirk
923 North Dove
Grapevine, TX 76051

Course Title: **Residential Sales Comparison-The Adjustment Process, No. 151**
Hours: **8**
Location: **Longview, TX**
Compl Date: **3/21/2013**

State Approval Number(s):

To be completed by student if applicable:

Certification / Lic No(s). TX-1333126-R

This is to certify under penalty of perjury that the student named above has satisfactorily completed the described course in accordance with the rules and requirements of the Columbia Institute and any agency listed. Satisfactory completion means having been in attendance 100 per cent of the scheduled time and having completed all required lessons; and for distance learning courses, the student satisfactorily completed all lessons. For appraiser qualifying course credit, satisfactory completion also means **HAVING PASSED WITH EXAMINATION.**

School Official: Virginia H. Coy



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(k)

Discussion and possible action to approve agreed final order regarding complaint file numbers 12-169 & 09-119 (Brad K. Harris, TX-1323199-G).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

BRAD K. HARRIS
TX-1323199-G

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DOCKETED COMPLAINT NO.
12-169 & 09-119

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Brad K. Harris (the "Respondent").

In order to conclude this matter, Respondent 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 in order to avoid the costs of litigation.

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds license number, and was licensed by the Board during all times material to the above-noted complaint.

2. Respondent appraised real property located at:

- a. 1824 Woodvine Drive, Houston, Texas 77056 ("the 1824 property");
- b. 1828 Woodvine Drive, Houston, Texas 77056 ("the 1828 property");
- c. 1830 Woodvine Drive, Houston, Texas 77056 ("the 1830 property"); and,
- d. 1834 Woodvine Drive, Houston, Texas 77056 ("the 1834 property")
(collectively, "the properties").

3. Thereafter two complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the 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 notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board, which he submitted to the Board.

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 reports for the properties:

- a) USPAP Ethics Rule (record keeping) -- Respondent violated the Ethics Rule because he failed to maintain work files containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provision;
- b) USPAP Scope of Work Rule; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results;
- c) USPAP Standards 1-2(f) or 1-2(g), 2-1(c) & 2-2(b)(x) – Respondent failed to indicate that his hypothetical condition that the valuations were subject to completion of improvements per plans and specifications might have affected his assignment results, nor did his work files contain the plans and specifications he referenced;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately and misrepresented the lot size and the view from the properties and also failed to identify and report the improvement(s) description adequately. Respondent inconsistently reported the properties were new construction and also subject to completion and his photographs depict unfinished properties;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), misrepresented the one-unit housing price range, and failed to provide supporting documentation and a summary of his reasoning in support of these required analyses, conclusions and determinations which are necessary to reach a credible and reliable market value determination;
- f) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent has failed to provide in his reports a brief summary of his rationale for his determination of the properties' highest and best use;
- g) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of site value determination, and did not provide supporting documentation or data for his determination, and no summary of his analysis and supporting rationale, for the site value determination;
- h) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide documentary support or the required analysis for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data, which revealed a lower price per square foot than Respondent used in his reports;
- i) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because he failed to provide written

analysis, documentary support for depreciation and did not calculate external obsolescence caused by the properties' adjoining various commercial properties;

- j) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Respondent has not provided supporting documentation nor his reasoning and a summary of his analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not discuss his analysis and reasoning behind the adjustments he made or elected not to make;
- k) USPAP Standards 1-5(a) & 2-2(b)(viii) ; 1-1(b); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to disclose, analyze and reconcile significant and material information regarding the properties' listing history, failed to disclose and analyze the contracts of sale and reconcile that information and data and failed to provide a summary of his supporting reasoning and analysis of all of this information and reconciliation;
- l) USPAP Standards 1-5(b) & 2-2(b)(viii); 1-1(b); 1-6(a) & 2-2(b) & 2-2(b)(viii) – Respondent made material misrepresentations and omitted material facts concerning a prior sale of the properties and failed to disclose, analyze and reconcile this significant and material information (including summarizing any reasoning supporting any analyses, opinions and conclusions he may have made and failing to provide work file documentation in support of any analyses, opinions and conclusions he may have made) within the 3 years prior to the effect date of each of the appraisal reports Respondent prepared for the properties;
- m) USPAP Standards 1-2(e) & 2-2(b)(viii) & 1-4(c)(iv) – Respondent did not retain a copy of the plans or specifications, upon which he predicated his assignment results and failed to indicate the probable time of completion, anticipated earnings, occupancy and anticipated competition at the time of completion, and,
- n) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced misleading appraisal reports for the properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in inflated appraisal reports that were not credible or reliable.

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

7. The parties enter into this consent order ("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)(3).
3. 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 state certification (TX-1323199-G) is hereby **SUSPENDED** for a period of 12 months, **effective 5:00 p.m., CT on May 17th, 2013 and ending 5:00 p.m., CT on May 17th, 2014.**

1. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and,
2. 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.

IT IS FURTHER ORDERED that Respondent pay an **administrative penalty** in the amount of **\$5,000** on or before **5:00 p.m. on Friday, June 7th, 2013**

Payment of the \$5,000 administrative penalty shall be made in 10, equal, monthly installment payments of \$500.00, which shall be timely and promptly submitted to the Board in accordance with the following payment scheduled:

- a. 1st payment due by: June 1st, 2013;
- b. 2nd payment due by: July 1st, 2013;
- c. 3rd payment due by: August 1st, 2013;
- d. 4th payment due by: September 1st, 2013;
- e. 5th payment due by: October 1st, 2013;
- f. 6th payment due by: November 1st, 2013;
- g. 7th payment due by: December 1st, 2013;
- h. 8th payment due by: January 1st, 2014;
- i. 9th payment due by: February 1st, 2014

j. 10th payment due by: March 1st, 2014

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

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 web site.

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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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 1st day of March, 2013.

BRK/H
BRAD K. HARRIS

[Signature]
JASON RAY, ATTORNEY FOR
BRAD K. HARRIS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 1st day of March, 2013, by BRAD K. HARRIS, to certify which, witness my hand and official seal

[Signature]
Notary Public Signature



Notary without Bond

Lisa Smith
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(1)

Discussion and possible action to approve agreed final order regarding complaint file numbers 12-222, 12-303 & 12-311 (Nicholas Angelo Pavle, TX-1336375-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

NICHOLAS ANGELO PAVLE
TX-1336375-R

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DOCKETED COMPLAINT NO.
12-222, 12-303 & 12-311

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Nicholas Angelo Pavle (the "Respondent").

In order to conclude this matter, Nicholas Angelo Pavle 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 residential real estate appraiser who holds certification number, TX-1336375-R, and was licensed by the Board during all times material to the above-noted complaints.
2. Respondent appraised real property (collectively, "the properties") located at:
 - a. 518 Newcastle Lane, Murphy, Texas 75094 (the "Newcastle property"), on or about May 2, 2007;
 - b. 1115 Avondale Drive, Murphy, Texas 75094 (the "Avondale property"), on or about November 10, 2006;
 - c. 1124 Terrace Mill Drive, Murphy, Texas 75094 (the "Terrace Mill property"), on or about October 12, 2006; and
 - d. 2601 Broadway Drive, Trophy Club, Texas 76262 (the "Broadway property"), on or about June 19, 2012.
3. Thereafter, complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the 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.

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 reports for the properties:

- a) USPAP Ethics Rule -- Respondent violated the Ethics Rule because he communicated assignment results in a misleading and fraudulent manner;
- b) USPAP Scope of Work Rule; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results; and failed to fulfill his scope of work obligation by allowing his trainee to inspect the Broadway property;
- c) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description adequately and misrepresented the lot size and the view from the properties and also failed to identify and report the improvement(s) description adequately;
- d) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to identify and report the specific zoning classification;
- e) USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand, and market area trends), misrepresented the one-unit housing price range, and failed to provide supporting documentation and a summary of his reasoning in support of these required analyses, conclusions and determinations which are necessary to reach a credible and reliable market value determination;
- f) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop his opinion of highest and best use;
- g) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of site value determination, and did not provide supporting documentation or data for his determination, and no summary of his analysis and supporting rationale, for the site value determination;
- h) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to provide documentary support or the required analysis for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- i) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because he failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the properties' adjoining properties;

- j) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Respondent has not provided supporting documentation nor his reasoning and a summary of his analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he did use, and did not disclose his analysis and reasoning behind the adjustments he made or elected not to make;
- k) USPAP Standards 1-5(a) and 2-2(b)(viii); 1-1(b); 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent failed to disclose, analyze and reconcile significant and material information regarding the properties' listing history, failed to disclose and analyze the contracts of sale and reconcile that information and data and failed to provide a summary of his supporting reasoning and analysis of all of this information and reconciliation;
- l) USPAP Standards 1-5(b) and 2-2(b)(viii); 1-1(b); 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent made material misrepresentations and omitted material facts concerning a prior sale of the properties and failed to disclose, analyze and reconcile this significant and material information (including summarizing any reasoning supporting any analyses, opinions and conclusions he may have made and failing to provide work file documentation in support of any analyses, opinions and conclusions he may have made) within the 3 years prior to the effect date of each of the appraisal reports Respondent prepared for the properties; and
- m) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced misleading appraisal reports for the properties that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in inflated appraisal reports that were not credible or reliable.

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

7. Respondent failed to disclose significant real property assistance provided by his trainee in the appraisal report of the Broadway property.

8. 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)(3).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(9) 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 state certification (TX-1336375-R) is hereby **SUSPENDED** for a period of eighteen (18) months, **effective 5:00 PM (CT) on Friday, May 17, 2013 (beginning date) and ending 5:00 PM (CT) on Monday, November 17, 2014 (ending date).**

1. **EDUCATION.** On or before November 17, 2014. During the eighteen (18) month suspension, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 17, 2014.
2. **MENTORSHIP.** On or before November 17, 2014. During the eighteen (18) month suspension, Respondent shall complete twenty (20) 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 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.**
 - a. Twenty (20) hours of mentorship concerning the above noted violations in the findings of fact, on or before November 17, 2014.

3. **EXPERIENCE LOG.** On or before May 17, 2015. After the eighteen (18) month suspension, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of six (6) months starting after the due dates for the education and mentorship (from November 17, 2014 to May 17, 2015). The log shall detail *all* real estate appraisal activities Respondent has conducted during that six (6) month 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 six (6) month period within twenty (20) days of receiving any such request.
4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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 28 day of March, 2013.

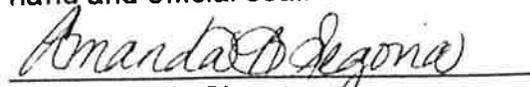


NICHOLAS ANGELO PAVLE



E. MITCHELL MARTZEN, ATTORNEY FOR
NICHOLAS ANGELO PAVLE

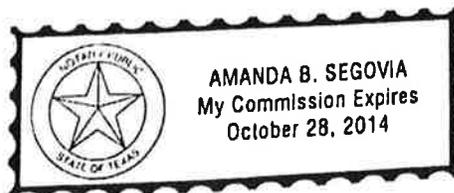
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 28th day of March, 2013, by NICHOLAS ANGELO PAVLE, to certify which, witness my hand and official seal.



Notary Public Signature

Amanda B. Segovia

Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(m)

Discussion and possible action to approve agreed final order regarding complaint file number 11-336 (Timothy Keith Lugeanbeal, TX-1332250-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

TIMOTHY KEITH LUGEANBEAL
TX-1332250-R

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§

DOCKETED COMPLAINT NO.
11-336

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Timothy Keith Lugeanbeal (the "Respondent").

In order to conclude this matter, Timothy Keith Lugeanbeal 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 Timothy Keith Lugeanbeal is a Texas state certified real estate appraiser who holds certification number TX-1332250-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 8416 Fullerton Drive, Cleburne, Texas 76033 (the "property") on or about October 25, 2010.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 Record Keeping Rule -- Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and

documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;

- b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report significant and material information concerning the site description;
 - c) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to provide adequate zoning information;
 - d) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to provide evidence in his appraisal report or workfile that support his opinions and conclusions reported in the Neighborhood section of the appraisal report;
 - e) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide his supporting rationale for his highest and best use determination;
 - f) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
 - g) 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 adequately and has not employed recognized methods and techniques in his sales comparison approach;
 - h) USPAP 2-2(b)(viii) – Respondent failed to explain the exclusion of the income approach;
 - i) USPAP Standards 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used; and
 - j) USPAP Standards 1-1(b), 1-1(c) and 2-1(a)– For the reasons detailed above, Respondent was careless and negligent and produced a misleading appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.
6. Respondent omitted material facts and made material misrepresentations as described in more detail above.
7. The parties enter into the following 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)(3).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting 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.

ORDER

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

1. **EDUCATION.** On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.
2. **MENTORSHIP.** On or before May 17, 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 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.**
 - a. Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and

4. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE

BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK 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 17 day of APRIL, 2013.


TIMOTHY KEITH LUGEANBEAL

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17th day of APRIL, 2013, by TIMOTHY KEITH LUGEANBEAL, to certify which, witness my hand and official seal.

Notary Public Signature
GHAZALA MERCHANT.
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(n)

Discussion and possible action to approve agreed final order regarding complaint file number 13-118 (Joshua Shae Hatfield, TX-1338755-R).

TEXAS APPRAISER LICENSING §
AND CERTIFICATION BOARD §

vs. §

JOSHUA SHAE HATFIELD §
TX-1338755-R §
§

DOCKETED COMPLAINT NO. 13-118

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Joshua Shae Hatfield (the "Respondent").

In order to conclude this matter, 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.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1338755-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about June 20th, 2012, Respondent appraised real property located at: 3002 Paleface Court, Austin, Texas 78734 ("the property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the 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 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 were 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 Record Keeping Rule - Respondent violated the Record Keeping Rule because he failed to maintain data, information, and documentation necessary to support opinions and conclusions in the report as required by USPAP;

- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- c) USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent failed to analyze the effect on use and value of economic supply & demand and market and area trends;
- d) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to brief summary of his supporting rationale for his determination of the property's of the highest and best use;
- e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use appropriate methods or techniques to develop an opinion of the site value and failed to provide a summary of the reasoning supporting his site value conclusions;
- f) USPAP Standards 1-4(a) & 2-2(b)(viii); 1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in the sales comparison approach; and,
- g) USPAP Standards 1-1(a), 1-1(b), 1-1(c); and 2-1(a) – Respondent produced a misleading appraisal report 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 an appraisal report that was not credible or reliable.

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

7. The parties enter into this consent order ("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)(3).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(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**:

1. **MENTORSHIP.** On or before **Monday, July 1st, 2013**, Respondent shall complete 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 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.

- A. 3 hours of mentorship in the sales comparison approach;
- B. 2 hours of mentorship in the cost approach; and,
- C. 3 hours of mentorship in appraisal analysis and appraisal report writing.

2. Fully and timely comply with all of the provisions of this Agreed Final Order; and,

3. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

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 AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE IMMEDIATELY SUSPENDED, UNTIL THE RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD. Payment of the \$1,000 administrative penalty must be in certified funds. The Board will notify the Respondent in writing of the failure to comply, the immediate assessment of the administrative penalty and the immediate suspension of the license, certification, authorization or registration.

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. If Respondent's license, certification, authorization or registration is suspended on such a basis, the suspension shall remain in effect until such time as Respondent is in full compliance with the terms of this Order and has provided adequate documentation of that compliance 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.

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. 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 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. 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, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK 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.

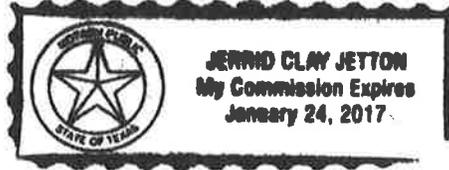
Signed this 23rd day of April, 2013.



JOSHUA SHAE HATFIELD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 23rd day of April, 2013, by, to certify which JOHSUA SHAE HATFIELD, witness my hand and official seal.

Jerrid Clay Jetton
Notary Public Signature



Jerrid Clay Jetton
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(o)

Discussion and possible action to approve agreed final order regarding complaint file numbers 13-120 & 13-169 (Freda Gail Maynard, TX-1334602-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

FREDA GAIL MAYNARD
TX-1334602-R

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DOCKETED COMPLAINT NO.
13-120 & 13-169

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Freda Gail Maynard (the "Respondent").

In order to conclude this matter, Freda Gail Maynard 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 Freda Gail Maynard is a Texas state certified real estate appraiser who holds certification number TX-1334602-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 2507 Grist Lane, Cedar Park, Texas 78613 (the "Grist property") on or about November 21, 2012; and 1507 W. 4th Street, Lampasas, Texas 76550 (the "4th Street property") on or about February 16, 2013.
3. Thereafter complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 the appraisal report for the Grist property:

- a) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because she failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;
- b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) -- Respondent failed to identify and report significant and material information concerning the site description; and failed to adequately identify and report information in the improvements description;
- c) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) -- Respondent failed to provide adequate zoning information;
- d) USPAP Standards 1-3(a) and 2-2(b)(viii) -- Respondent failed to provide evidence in her appraisal report or workfile that support her opinions and conclusions reported in the Neighborhood section of the appraisal report;
- e) USPAP Standards 1-3(b) and 2-2(b)(ix) -- Respondent failed to provide her supporting rationale for her highest and best use determination;
- f) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for her determination;
- g) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent failed to provide documentary support or the required analysis for her determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- h) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because she failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the property adjoining properties;
- i) 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 adequately and has not employed recognized methods and techniques in her sales comparison approach;
- j) USPAP Standards 1-1(a) and 1-1(b) -- For the reasons detailed above, Respondent produced an appraisal report for the property that contained several substantial errors of omission or commission by failing to use correct methods and techniques.

6. 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 the appraisal report for the 4th street property:

- a) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because she failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;
- b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report significant and material information concerning the site description;
- c) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to provide adequate zoning information;
- d) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to provide evidence in her appraisal report or workfile that support her opinions and conclusions reported in the Neighborhood section of the appraisal report;
- e) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide her supporting rationale for her highest and best use determination;
- f) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for her determination;
- g) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to provide documentary support or the required analysis for her determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- h) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because she failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the property adjoining properties;
- i) 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 adequately and has not employed recognized methods and techniques in his sales comparison approach;
- j) USPAP Standards 1-1(a) and 1-1(b) -- For the reasons detailed above, Respondent produced an appraisal report for the property that contained several substantial errors of omission or commission by failing to use correct methods and techniques.

7. Respondent omitted material facts as described in more detail above.

8. The parties enter into the following 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(a)(12) by 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.

ORDER

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

1. **EDUCATION.** On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.
2. **MENTORSHIP.** On or before May 17, 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 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.**
 - a. Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and

4. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A

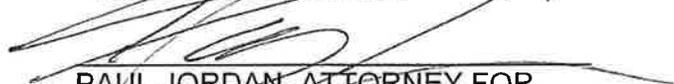
HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE EXPERIENCE 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 24 day of April, 2013.

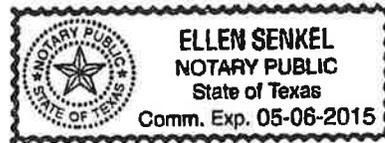

FREDA GAIL MAYNARD


PAUL JORDAN, ATTORNEY FOR
FREDA GAIL MAYNARD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 24 day of April, 2013, by FREDA GAIL MAYNARD, to certify which, witness my hand and official seal.


Notary Public Signature

Ellen Senkel
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(p)

Discussion and possible action to approve agreed final order regarding complaint file number 10-288 (Gregory Ozaeta, TX-1333912-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

GREGORY OZAETA
TX-1333912-R

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DOCKETED COMPLAINT NO.
10-288

AGREED FINAL ORDER

On the _____ day of _____, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Gregory Ozaeta (the "Respondent").

In order to conclude this matter, Gregory Ozaeta 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 Gregory Ozaeta is a Texas state certified residential real estate appraiser who holds certification number TX-1333912-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 2816 E. Vickery Blvd., Fort Worth, Texas (the "property") on or about June 5, 2007.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 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.
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 communicated assignment results that were misleading through the omission of significant material information and the commission of significant errors;
- b) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;
- c) USPAP Scope of Work; 1-2(h) – Respondent failed to support his work with the relevant evidence and logic required by this rule to obtain credible assignment results;
- d) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report significant and material information concerning the site description;
- e) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to provide adequate zoning information;
- f) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to provide evidence in his appraisal report or workfile that support his opinions and conclusions reported in the Neighborhood section of the appraisal report;
- g) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide his supporting rationale for his highest and best use determination;
- h) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for his determination;
- i) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- j) 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 adequately and has not employed recognized methods and techniques in his sales comparison approach;
- k) USPAP 2-2(b)(viii) – Respondent failed to explain the exclusion of the income approach;
- l) USPAP Standards 1-5(a) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject property within 3 years prior to the effective date of the appraisal;
- m) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent was careless and negligent and produced a misleading

appraisal report for the property that contained several substantial errors of omission or commission by choosing not to employ correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.

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

7. The parties enter into the following 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)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting 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.

ORDER

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

1. **EDUCATION.** On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

a. A classroom course in Residential Cost Approach, a minimum of fifteen (15) class hours, on or before May 17, 2014.

b. A classroom course in Residential Report Writing, a minimum of fifteen (15) class hours, on or before May 17, 2014.

- c. A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17, 2014.
 - d. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.
2. Fully and timely comply with all of the provisions of this Agreed Final Order; and
 3. 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.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY 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 web site.

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. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK 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 30th day of April, 2013.


GREGORY OZAETA

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30th day of April, 2013, by GREGORY OZAETA, to certify which, witness my hand and official seal.


Notary Public Signature

Michael Rangel Jr.
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this _____ day of _____, 2013.

Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this _____ day of _____, 2013.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this ____ day of _____, 2013.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 7(q)

Discussion and possible action to approve agreed final order regarding complaint file number 11-419 (Richard Thomas Jones, TX-1331973-R).

Order to be presented.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(r)

Discussion and possible action to approve agreed final order regarding complaint file number 12-183 (Barry William Johnson, TX-1332156-R).

Order to be presented.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(s)

Discussion and possible action to approve agreed final order regarding complaint file number 13-022 (Blake Taylor Stratton, TX-1337605-R).

Order to be presented.



AGENDA ITEM 7(t)

Discussion and possible action to approve agreed final order regarding complaint file number 13-047 (Richard Leo Dockery, TX-1322548-G).

Order to be presented.



AGENDA ITEM 7(u)

Discussion and possible action to approve agreed final order regarding complaint file number 13-092 (Eric Lane Clanton, TX-1337041-R).

Order to be presented.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(v)

Discussion and possible action to accept Surrender of Registration from complaint file number 13-073 (David Louis Smedley, TX-2878).

SURRENDER OF REGISTRATION

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
13-073

DAVID LOUIS SMEDLEY
TX-2878

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared David Louis Smedley, who being by me duly sworn, deposes as follows:

My name is David Louis Smedley I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am a registered nonresident temporary appraiser in the State of Texas and I am voluntarily and permanently surrendering my registration to the Texas Appraiser Licensing and Certification Board because I no longer desire to be registered.

I understand that through this action the Texas Appraiser Licensing and Certification Board will permanently revoke my registration without formal charges, notice, or a hearing.

I hereby waive my right to appeal or complain of any final order entered by the Texas Appraiser Licensing and Certification Board accepting the voluntary surrender of my registration.

David L. Smedley
NAME (PRINT)

[Handwritten Signature]
SIGNATURE

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 13th day of March, 2013.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

[Handwritten Signature]
Notary Public's Signature

my comm expires:
11-3-15

Notary Public's Printed Name

Candace Holloran



SURRENDER OF REGISTRATION

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
13-073

DAVID LOUIS SMEDLEY
TX-2878

ORDER OF THE BOARD

WHEREAS, DAVID LOUIS SMEDLEY has submitted to the Board his affidavit that he no longer desires to be approved as a registered nonresident temporary appraiser, and that he has voluntarily surrendered his registration, the Board takes the following action:

NOW, THEREFORE, IT IS ORDERED that registration number TX-2878 hereto issued to DAVID LOUIS SMEDLEY, to practice real property appraisal in the State of Texas, be revoked without formal charges, notice of hearing, or a formal hearing.

Approved by the Board and Signed this ____ day of _____, 2013.

Walker R. Beard, Chairperson
Texas Appraiser Licensing and Certification Board



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 7(w)

Discussion and possible action to accept Surrender of License from Ndubuisi Alfred Ukandu, TX-1335302-L.

SURRENDER OF LICENSE

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

NDUBUISI ALFRED UKANDU
TX-1335302-L

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared NDUBUISI ALFRED UKANDU, who being by me duly sworn, deposes as follows:

My name is NDUBUISI ALFRED UKANDU I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am a STATE LICENSED REAL ESTATE APPRAISER [TX-1335302-L] in the State of Texas and I am voluntarily and permanently surrendering my LICENSE to the Texas Appraiser Licensing and Certification Board because I no longer desire to be LICENSED.

I understand that through this action the Texas Appraiser Licensing and Certification Board will permanently revoke my LICENSE without formal charges, notice, or a hearing.

I hereby waive my right to appeal or complain of any final order entered by the Texas Appraiser Licensing and Certification Board accepting the voluntary surrender of my LICENSE.

NDUBUISI ALFRED UKANDU
NAME (PRINT)

NDUBUISI ALFRED UKANDU
SIGNATURE

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the 15th day of April, 2013.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

[Signature]
Notary Public's Signature

Consolacion de la Rosa Orda
Notary Public's Printed Name



SURRENDER OF LICENSE

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

NDUBUISI ALFRED UKANDU
TX-1335302-L

ORDER OF THE BOARD

WHEREAS, NDUBUISI ALFRED UKANDU has submitted to the Board his affidavit that he no longer desires to be approved as a State Licensed Real Estate Appraiser, and that he has voluntarily surrendered his license, the Board takes the following action:

NOW, THEREFORE, IT IS ORDERED that license number TX-1335302-L hereto issued to NDUBUISI ALFRED UKANDU, to practice real property appraisal in the State of Texas, be revoked without formal charges, notice of hearing, or a formal hearing.

Approved by the Board and Signed this ____ day of _____, 2013.

Walker R. Beard, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 8(a)

Discussion and possible action to approve request for modification of agreed order in the matter of complaint numbers 05-089 & 07-030 (Joshua Stone Baugher, TX-1331720-L).

Joshua S. Baugher
7007 Bucknell Dr
Dallas, TX 75214
Tel (214) 707-7892
Fax (214) 292-9353
March 15, 2013

Texas Appraiser Licensing and Certification Board
P.O. Box 12188
Austin, TX 78711-2188

Dear Board Members:

I have been a Texas state licensed real estate appraiser having held license number TX-1331720-L from 2002 through 2006. During this time there were two docketed complaints filed: No. 05-089 & 07-030. I had worked as a contract appraiser for an appraisal company in Frisco at the time that the reports cited for complaint were prepared. I had come to believe that they were unscrupulous in their dealings and I had severed my relationship with them by the time the complaints were received by me. As the relationship was severed, they retained all work files for my reports, and I was unable to retrieve the work files for the properties cited in the complaints noted above. At about this same time I was contacted by law enforcement regarding that appraisal company. I was asked to provide material support for law enforcement's investigation into that company. Additionally, I was involved in a separation and child custody dispute at this time and my resources, as well as my mental and emotional state, were being severely taxed. I felt unable to take the necessary legal steps to retrieve work files from the appraisal company and to take the necessary action to respond to the complaints above noted including traveling to Austin to meet with the Board. I therefore made an extremely poor and shortsighted judgment regarding my licensure with the state and unwisely allowed my license to expire, and further, by signing the Order which was proposed to me, any opportunity for me to practice appraisal in the future was ended.

I am now writing to you regarding the Agreed Final Order approved by the board on January 15th, 2008. I humbly ask that the Order be rescinded and that I may be allowed to become an Appraiser once again. My license having been neither suspended nor revoked, and no probation, administrative penalty, or remedial education actions imposed, I request that the board may see fit to impose a sanction and allow me again licensure. Since the time of the Order, I have worked as a Collateral Analyst for Citigroup and had been actively involved in monitoring real estate markets and property values until I was fired for the nature of my licensure status and the Order. I have spent a great deal of my professional career in Real Estate valuation and feel that I will not be able to proceed again professionally without the acknowledgement from the state that licensure and certification convey. I sincerely wish to continue my education as an Appraiser and for the opportunity to utilize sound judgment and to practice at the highest

Texas Appraiser Licensing and Certification Board
March 15, 2013
Page 2

professional level to the highest professional standard. It is with the greatest sense of humility, respect, and responsibility that I petition you now to rescind the Order.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua S. Baugher', with a long horizontal line extending to the right.

Joshua S. Baugher

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JOSHUA STONE BAUGHER
TX-1331720-L

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DOCKETED COMPLAINT NO.
05-089 & 07-030

AGREED FINAL ORDER

On this the ^{15th} ~~10th~~ day of ^{JANUARY} ~~DECEMBER~~, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Joshua Stone Baugher, (Respondent). 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 Joshua Stone Baugher was a Texas state licensed real estate appraiser, previously held license number TX-1331720-L, and was licensed by the Board during all times material to the above-noted complaint cases.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Since the time of these complaints, Respondent's state license as a real estate appraiser has expired and Respondent no longer desires to hold a license, certification, authorization or registration from the Board. Respondent acknowledges that his state license has lapsed and he is hereby agreeing not to seek renewal of the license, nor to apply for any authorization, license, certification or registration with the Board in the future.
4. On or about February 28th, 2005 Respondent appraised real property located at 2553 Harvest Lane, Fort Worth, Tarrant County, Texas ("the Harvest Lane property) for the client, First Capital Investments.
5. On or about March 18th, 2005 Respondent appraised real property located at 122 Fossil Creek Circle, Sherman, Texas ("the Fossil property) for the client, Alethes, LLC d/b/a Amerinet Mortgage.
6. On or about March 30th, 2005, the Complainant, Kim Poppe, filed a complaint with the Board. The Complainant asserted that the Respondent had produced a purposefully inflated appraisal for the Harvest Lane property. On or about November 15th, 2006, the Complainant, Jack McComb, filed a staff-initiated complaint with the Board. This complaint was based upon information submitted by Dan R. Gomez, Jr.,

the Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD"). HUD asserted that Respondent had violated provisions of USPAP in his appraisal of the Fossil property.

7. On or about April 13th, 2005 and June 6th, 2005 and November 28th, 2006 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 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 both complaints. Respondent's response to both complaints was received.

8. The Enforcement Division has concluded that the 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 Harvest Lane property:

- a. USPAP Ethics Rule – Respondent failed to comply with the record keeping provisions of USPAP's Ethics Rule;
- b. USPAP Standards 2-2(b) – Respondent failed to prominently state the report option he used;
- c. USPAP Standards 1-2(b) & 2-2(b)(ii) – Respondent has failed to identify the intended use of his opinions and conclusions;
- d. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the Harvest Lane property's site description adequately;
- e. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the Harvest Lane property's improvement(s) description adequately;
- f. USPAP Standards 1-2(e)(iv) & 2-2(b)(ix) and 1-3(a) & 2-2(b)(ix) – Respondent did not consider and report the specific zoning for the Harvest Lane property;
- g. USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent has failed to provide a brief summary of his rationale for his determination of the Harvest Lane property's highest and best use;
- h. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop an opinion of the Harvest Lane property's site value;

- i. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements;
- j. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile accrued depreciations;
- k. USPAP Standards 1-1(a) & 1-4(b) – Respondent has not employed recognized methods and techniques in his cost approach analysis of the Harvest Lane property correctly;
- l. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has not collected, verified, analyzed and reconciled comparable sales data adequately;
- m. USPAP Standards 1-1(a) & 1-4(a) – Respondent has not employed recognized methods and techniques correctly;
- n. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze all agreements of sale, options or listings of the Harvest Lane property current as of the effective date of the appraisal;
- o. USPAP Standards 1-6(a) & (b) & 2-2(b)(ix) – Respondent has failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- p. USPAP Standard 1-1(a) – Respondent has not correctly employed recognized methods and techniques to produce a credible appraisal for the Harvest Lane property;
- q. USPAP Standard 1-1(b) – Respondent has committed substantial errors of omission or commission that significantly affects his appraisal of the Harvest Lane property;
- r. USPAP Standard 1-1(c) – Respondent has rendered careless or negligent appraisal services;
- s. USPAP Standard 2-1(a) – Respondent has failed to clearly and accurately set forth the appraisal of the Harvest Lane property in a manner that will not be misleading to users of the report; and,
- t. USPAP Standard 2-1(b) – Respondent has failed to provide sufficient information in his Harvest Lane appraisal report for intended users to understand the report properly.

9. The Enforcement Division has concluded that the 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 Fossil property:

- a. USPAP Supplemental Standards Rule – Respondent has failed to adhere to supplemental standards that were imposed by HUD;
- b. USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to properly report the Fossil property’s specific zoning;
- c. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately;
- d. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description adequately;
- e. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile accrued depreciations;
- f. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to adequately collect, verify, analyze and reconcile comparable sales data;
- g. USPAP Standards 1-1(a) & 1-4(a) – Respondent has failed to employ recognized methods and techniques in his sales comparison approach correctly;
- h. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze the agreement of sales and listings of the Fossil property;

10. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations and omissions of material facts in the appraisal report for the properties. These material misrepresentations and omissions of material fact include: (1) failing to analyze and disclose the contract of sale and listing history of the Harvest Lane and Fossil properties, and (2) omitting more appropriate, more comparable properties from the sales comparison analysis of the Harvest Lane property even though these more similar sales were in the immediate neighborhood, readily available and should have been used to produce a credible appraisal report.

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 USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Ethics Rule; USPAP Supplemental Standards Rule; USPAP Standards Rules: 2-2(b); 1-2(b) & 2-2(b)(ii); 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(ix); 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); 1-5(a) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 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 making material misrepresentations and omissions of material facts.

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

1. Respondent shall not seek renewal of his license, nor apply to the Board for any authorization, license, certification or registration in the future.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

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 in the Board's newsletter and/or 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 Consent Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 26th day of November, 2007.



JOSHUA STONE BAUGHER

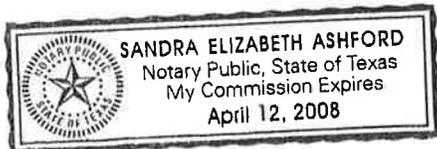
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 26th day of November, 2007, by JOSHUA STONE BAUGHER, to certify which, witness my hand and official seal.



Notary Public Signature

Sandra Elizabeth Ashford

Notary Public's Printed Name



Signed by the Commissioner this 11th day of January, ~~2007~~ ²⁰⁰⁸

[Signature]
Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15 day of JANUARY, 2007. ⁸

[Signature]
Larry Kokel, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 8(b)

Discussion and possible action to approve request for modification of agreed order in the matter of complaint number 09-168 (Steven Dale Brooks, TX-1321893-R).

Ted Whitmer, CRE CCIM MAI Attorney

Lisa Smith, Paralegal & Legal Administrator

Carly Whitmer, Education Director

2508 Merrimac Ct. • College Station, TX 77845 • Phone: 979.690.9465 • Fax: 979.987.2530

E-Mail: ted@tedwhitmer.com Web: www.tedwhitmer.com & www.appraiserdefense.com



April 29, 2013

Kerri T. Galvin

General Counsel/Deputy Commissioner, Texas Appraiser Licensing and Certification Board

Deputy General Counsel, Texas Real Estate Commission

Stephen F. Austin Building

1700 N. Congress Ave., Suite 400

Austin, TX 78701

Phone (512) 936-3284

Fax (512) 936-3788

kerri.galvin@talcb.texas.gov

Dear Kerri,

Steve Brooks, Texas License number TX 1321893-R, signed an Agreed Order in 2009 and agreed to have his license revoked without the possibility of having it reinstated. At the time of the surrender, Steve did not have representation. Now, he would like to have his license reinstated. Please see his history below, written by him, and consider adding his name to the agenda for the May TALCB meeting. I have also attached a copy of his resume for you to review.

The statutory time period before an appraiser who is revoked to request the ability to become an appraiser again is two years.

HISTORY

I began appraising in 1986 with a real estate salesmen's license and joined the Society of Real Estate Appraisers. My first job I worked for an MAI/SRPA and SRA working mostly residential and some commercial. I wanted to become an MAI and took all required classes. There was just not enough commercial work. Training was very strict, and I made little money. During this time I obtained broker license.

I left this job and worked 1 year for a large volume appraisal company. I received my designation, left, and started company with a partner. During this time around 1990 an appraisal license was required. My number was TX-1321893-R.

My partner moved out of state so I had my own small appraisal company for around 15 years. I had a successful business during this time. I hired a full time appraiser and some part time helpers. My full time appraiser, worked for me around 8 years and let his license expire, and I kept allowing him to appraise. I was regularly telling him to get compliant. This was nothing I planned or wanted. I would sign his certification. I received a complaint from the state that said the appraisal I performed was too low. It is the only complaint I have ever had. One of the standard questions on the questionnaire was about who inspected property. My unlicensed appraiser inspected it. I stated this and acknowledged that



this was wrong and I should not have allowed it. I also revealed this had been going on for long time. The state asked for copy of my log for the past 2 years. I sent it and they randomly chose around 10 reports they wanted to review. I sent them. There was nothing wrong with the reports. During this time they called my appraiser for a meeting in Austin. They told him he was not going to be allowed to renew his license. Months later the TALCB called and requested a meeting with me and stated they were going to take my license. This was a very stressful time. I stated I would just turn it in and they agreed. They sent a form agreement that said I did nothing wrong and I admitted to nothing wrong. I sent it to them a little over 3 years ago. I was fully cooperative.

For the first 6 months after appraising was over I was a substitute teacher, worked for US Census, and umpired kids baseball. I now ump public high school baseball, and find it very enjoyable.

Then, I found a real job with First Preston Mgt. They manage and market HUD homes. I had a variety of duties including reviewing BPO and appraisals. The salary was \$30,000 with some overtime. After 1+ year I moved to my present job.

Servicelink is an appraisal management company, and I perform checklist reviews. I am in production and review 25+/- appraisals daily. Last May, 2012, my company paid for the 15 hour USPAP class and I passed the test. My salary is \$43,000 with some overtime. I am giving my 2 weeks' notice today for a higher paying job.

My new company is Caliber Funding, a lender, and my job title is Review Appraiser. My duties should include some review, managing appraiser panel and general real estate consulting. Salary is \$55,000. My first day is 2/19/13. I told Caliber about my license issue.

I have created many problems for myself since I turned in my license. I used to live in a nice neighborhood in Rockwall/Heath, and now live in an old rent house in Mesquite. I used to regularly make \$100,000++/year. My actions have caused undeserved stress on my wife and kids. It has been a nightmare. My wife sent me to the doctor for depression. I took medication for few months. I am basically starting all over at age 50. I knew at the time I was doing wrong with my unlicensed appraiser and was greatly disturbed. I could have easily lied on that form, and they would have never known, but I didn't. As things have turned out, I probably should have. I knew I would lose my license. I voluntarily revealed my wrongdoing and have basically given myself a 3 year punishment. This has affected me physically, and I have lost lots of weight. I am having problems adjusting to all this. I could write all day about the negative effects from this experience, but I won't.

Please add Steve Brooks to the agenda for the May TALCB meeting.



Sincerely,

Ted Whitmer, Attorney, CRE CCIM MAI
General Certified Appraiser, Certified USPAP Instructor
2508 Merrimac Court
College Station, Texas 77845
979.690.9465
979.987.2530 (F)
979.492.4124 (C)
ted@tedwhitmer.com

Steve Brooks

602 Lakeside Drive
Mesquite, TX 75149

(972) 279-9060 H
(972) 365-8624 C

Seasoned Real Estate professional/appraiser with over 20 years of experience. Broad background in research, assembly, and analysis of facts, statistics, and other information. Professional judgment, strong analytical skills, and ability to pay attention to detail.

EXPERIENCE

ServiceLink R.E. Appraisal Management Irving, Texas **2011-Present**
Quality Control Analyst – Team Lead

- *Nationwide review and approval of residential appraisals for JPMorgan Chase Bank. Team Lead responsibilities include: training analysts, consultation, and assisting managers to achieve production goals.*

First Preston Management Dallas, Texas **2010 - 2011**
*HomeTelos
Marketing Specialist*

- *Primary duties include: disposition of HUD foreclosures, order/review appraisals and BPO's from Texas, New Mexico, Colorado and Utah. List price analysis, price reductions, virtual tour reviews, property work orders and broker consultation. Assist in managing large housing inventory in fast paced environment. Obtained security clearance. Experience with Yardi.*

Brooks & Associates, Inc. Mesquite, Texas **1995 - 2010**
Real Estate Appraisers, President

- *President of own Residential Real Estate Appraisal Company. Trained all personnel and delegated workload to staff. Reviewed all reports for accuracy and logic. Solicited new clients while maintaining existing client relationships. Served as the primary source to resolve issues arising from complex property appraisals. Performed extensive residential reviews on a local and national level. Provided accurate analysis of reviews to protect assets against fraud and loss associated with inflated value conclusions and/or improperly completed appraisals. Research utilizing multiple listing service, tax records, Marshall and Swift Cost Service, internet tools, agent information and others*

McCarver Brooks, Inc. Dallas, Texas **1990 - 1995**
Real Estate Appraisers, Co-Owner

- *Vice President of Residential Real Estate Appraisal Co. for 5 years. Trained all personnel and delegated workload to staff. Reviewed all reports for accuracy and logic. Solicited new clients while maintaining existing client relationships.*

Neugent & Light, Inc. Dallas, Texas **1989-1990**
Real Estate Appraisers, Fee Appraiser

- *Residential Real Estate inspection, research and valuation in the Dallas – Fort Worth Metroplex and surrounding areas. Inspected and appraised single family, duplex, condominium, vacant land, farms/ranches, and some commercial property.*

Metro Appraisal Service, Mesquite, Texas **1986 - 1989**
Real Estate Appraisers, Fee Appraiser

- *Residential Real Estate inspection, research and valuation in the Dallas – Fort Worth Metroplex and surrounding areas. Inspected and appraised single family, duplex, condominium, vacant land, farms/ranches, and some commercial property. Valuation purposes include conventional, and FHA mortgage financing, relocation, REO, court testimony, appeals of assessments, and negotiation between buyers and sellers.*

EDUCATION

University of Texas at Dallas - B.S. Business and Public Administration
Numerous Real Estate classes and seminars

ASSOCIATIONS

Appraisal Institute, SRA Member 1989-2009
Held Texas Appraiser License From 1990 - 2010
Fort Worth Board of Realtors, Past Member
Mesquite Church of Christ, Member

COMPUTER SKILLS

General computer knowledge

GOALS

Position that might include review, research/support, valuation, marketing, and management in Real Estate.

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

STEVEN DALE BROOKS
TX-1321893-R

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DOCKETED COMPLAINT NO.
09-168

AGREED FINAL ORDER

On this the 12 day of Feb, 200¹⁰~~9~~, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Steven Dale Brooks (Respondent).

In order to conclude this matter Steven Dale Brooks 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, Steven Dale Brooks, is a state certified residential real estate appraiser who currently holds and held certification number TX-1321893-R during all times material to the above-noted complaint case.
2. Respondent appraised 6451 Sondra Drive, Dallas, Texas 75214 ("the property") on or about March 14th, 2009.
3. Thereafter a complaint relating to Respondent's appraisal of the property was filed with the Board. The complaint alleged that Respondent produced an appraisal report that contained various deficiencies.
4. 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 complaint. Respondent's response was received.
5. The parties hereby enter into the foregoing consent order in accordance with TEX. OCC. CODE § 1103.458.
6. Without admitting any wrongdoing, and in order to resolve these matters without incurring the time and expense of litigation, Respondent to consents to the revocation of his certification.

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. 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 Respondent's certification shall be and is hereby **REVOKED**. Respondent shall not be entitled to apply for reinstatement in accordance with TEX. OCC. CODE § 1103.522.

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.

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.

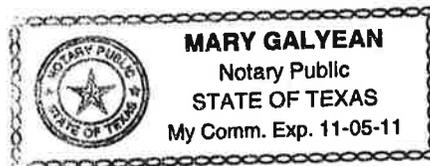
Signed this 4TH day of DECEMBER, 2009.

Steven Dale Brooks
STEVEN DALE BROOKS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 4 day of December, 2009, by STEVEN DALE BROOKS, to certify which, witness my hand and official seal.

Mary Galyeon
Notary Public Signature

MARY GALYEON
Notary Public's Printed Name



Signed by the Commissioner this 4 day of December, 2009.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 12 day of Feb, 200~~9~~¹⁰.



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

AGENDA ITEM 9

Discussion and possible action on proposal for decision from the State Office of Administrative Hearings regarding SOAH docket number 329.12.7842.ALC (Tom M. Curran, TX-1321290-R).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 4, 2013

Douglas E. Oldmixon
Administrator
Texas Appraiser Licensing and Certification Board
1700 N. Congress Avenue, Suite 400
Austin, TX 78701

VIA INTERAGENCY

RE: Docket No. 329-12-7842.ALC; Texas Appraiser Licensing and Certification Board, Petitioner v. Tom M. Curran, Respondent

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Lilo D. Pomerleau".

Lilo D. Pomerleau
Administrative Law Judge

LDP:nl

Enclosure

xc: Troy Beaulieu, 1700 N. Congress Ave., Suite 400, Austin, TX – **VIA INTERAGENCY**
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SOAH DOCKET NO. 329-12-7842.ALC

TEXAS APPRAISER LICENSING AND § BEFORE THE STATE OFFICE
CERTIFICATION BOARD, §
Petitioner §
v. § OF
TOM M. CURRAN, §
Respondent § ADMINISTRATIVE HEARINGS

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SOAH DOCKET NO. 329-12-7842.ALC

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD, Petitioner	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
v.		
TOM M. CURRAN, Respondent		

PROPOSAL FOR DECISION

The Texas Appraiser Licensing and Certification Board (Staff/Board) brought this action to revoke the real property appraiser certification held by Tom M. Curran (Respondent) and impose the maximum administrative penalties, based on allegations that Respondent violated the Texas Appraiser Licensing and Certification Act (Act)¹ and the Board's rules by producing three appraisal reports that were deliberately misrepresentative and failed to conform to the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). These appraisal reports were ultimately used in mortgage fraud. The Administrative Law Judge (ALJ) recommends that Respondent pay an administrative penalty of \$5,000 and that the Board suspend Respondent's license for a one-year period. At the end of the suspension period, Respondent should be required to submit to a mentorship.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There were no contested issues of jurisdiction or notice. Therefore, those issues are set out in the Findings of Fact and Conclusions of Law without further discussion.

The hearing convened October 30 through November 1, 2012, before ALJ Lilo D. Pomerleau at the William P. Clements State Office Building, 300 West 15th Street, Austin, Texas. Staff was represented by attorney Troy Beaulieu. Respondent appeared and was represented by attorney Ted Whitmer. The record closed on January 4, 2013, with the filing of closing arguments.

¹ Tex. Occ. Code ch. 1103.

II. BACKGROUND INFORMATION

A. Overview

An appraisal is the act or process of arriving at a value determination.² More specifically, USPAP defines an appraisal as “the act or process of developing an opinion of value.”³

This case arose from property appraisal services performed by Respondent on three properties in the greater Dallas area. Two properties, 4004 and 4007 Brownstone Court, Dallas, Texas, are identical units and were appraised in October/November 2007 (the Brownstone units).⁴ The third property is located at 809 Edgewood Drive, DeSoto, Texas, (the Edgewood property) and Respondent appraised it in August 2007. Respondent performed each of the appraisals for the purpose of mortgage finance transactions in which the lenders, who were Respondent’s clients, were seeking to determine the value of the property so the lender/client could make a lending decision. All of the appraisal reports were summary reports.⁵

Staff alleges that Respondent deliberately violated USPAP standards, the Act, and Board rules by producing purposefully inflated, misrepresentative, unreliable, and otherwise deficient appraisal reports. In the alternative, Staff alleges that these violations, if not deliberate, were done with gross neglect. Staff’s Statement of Charges consists of three general charges and a number of specific alleged violations. The general charges are set out immediately below. The specific alleged violations are discussed in detail in Section III. of the Proposal for Decision (PFD).

Charge 1: Staff alleges Respondent violated the Act § 1103.405 and 22 Texas Administrative Code §§ 153.20(a)(3) and 155.1(a) by failing to comply with

² Tr. at 337.

³ Tr. at 338, citing from Staff Ex. 3, USPAP, at Bates 36. Hereafter, all references to page numbers refer to Bates number located in the bottom right corner of the page.

⁴ Tr. at 96, 28. The ALJ addresses the Brownstone units together unless there is a distinguishable item or issue.

⁵ Tr. at 60.

multiple USPAP standards in effect at the times he conducted the appraisals at issue.⁶

Charge 2: Staff alleges Respondent violated 22 Texas Administrative Code § 153.20(a)(9)⁷ by making material misrepresentations and omissions of material facts in his appraisals of the properties.

Charge 3: Staff alleges that Respondent violated 22 Texas Administrative Code § 153.20(a)(7) and (8)⁸ by accepting an assignment and being paid for and producing appraisal reports based upon a predetermined value. According to Staff, Respondent's conduct was more egregious than mere negligence. Staff contends Respondent deliberately appraised the three properties so as to achieve results that were predetermined, inflated, and misleading, or he appraised the properties with gross negligence. In addition, Staff contends that Respondent's response to Board Staff's complaint was intentionally misleading.⁹

Respondent denies predetermining or inflating the value of the properties or engaging in any deliberate wrongdoing.

In its Notice of Hearing, Staff seeks revocation of Respondent's certification and the imposition of an administrative penalty, and, alternatively, the imposition of an administrative penalty, an order requiring remedial education or mentorship, and/or suspension or probated revocation of Respondent's certification.¹⁰ However, in closing briefs, Staff requests revocation and the imposition of a \$5,000 administrative penalty.

⁶ Act § 1103.405 requires that a licensed appraiser comply with the most current edition of the USPAP or other standards promulgated by the Board that are at least as stringent as USPAP. Board Rule 155.1(a) requires that an appraisal performed by a person subject to the Act must conform with the USPAP standards in effect at the time of the appraisal. 22 Tex. Admin. Code § 155.1(a). The Board may suspend or revoke the license of an appraiser who has failed to comply with the applicable USPAP. 22 Tex. Admin. Code § 155.20(a)(6).

⁷ This rule was renumbered without substantive changes effective December 27, 2012, and is now located at 22 Texas Administrative Code § 153.20(a)(12).

⁸ These subsections of the rule were renumbered without substantive changes effective December 27, 2012, and are now located at 22 Texas Administrative Code § 153.20(a)(10) and (11), respectively.

⁹ Staff Ex. 2, Notice of Hearing and Original Statement of Charges. Staff's initial brief focused on the broader and larger proposed violations but did not discuss all violations set out in the Statement of Charges. The PFD briefly addresses all proposed violations.

¹⁰ The Board's current sanctions rule is found at 22 Texas Administrative Code § 153.24(9). The Board is authorized to impose an administrative penalty not to exceed \$5,000 for multiple violations. Act § 1103.552.

B. Legal Authorities

A person who holds a certificate issued by the Board is required to comply with the most current edition of the USPAP, which sets out the minimum obligations that an appraiser is required to adhere to when conducting appraisals.¹¹ Respondent performed the appraisals at issue in 2007; therefore, the 2006-2007 version of the USPAP applies to the appraisals in this proceeding. USPAP Standard 1 establishes the minimum analysis or development that an appraiser must do to conduct an appraisal. Standard 2 establishes the minimum reporting requirements. USPAP also contains an Ethics Rule, which is divided into four sections: conduct, management, confidentiality, and record keeping.

In this contested case proceeding, Staff bears the burden of proof on its allegations.¹²

C. Expert Witnesses and General Facts**1. Respondent**

Respondent has been a residential real estate appraiser since 1985, and is the sole appraiser in his own appraisal company, Tom M. Curran Appraisal Company. He has been licensed since June 18, 1991, and has had no previous Board disciplinary proceedings.¹³

Respondent testified that his job as an appraiser is to analyze data, draw conclusions based on factual and market information, and come to a value conclusion. In his discovery response, Respondent stated that his process for collecting data in all three appraisals consisted of: (1) fully searching for tax records, listings (active and pending); (2) driving by the subject area; (3) searching the area for homes with similar square footage, age, and amenities;

¹¹ Act § 1103.405; 22 Tex. Admin. Code § 155.1.

¹² 1 Tex. Admin. Code § 155.427.

¹³ Staff Ex. 1.

(4) compiling a file and beginning a neighborhood analysis; (5) determining highest and best use; (6) determining neighborhood boundaries; and (7) completing an active history of the property.¹⁴

2. Staff's Expert Witness

Robin Gray Forrester, Jr., is a Certified Residential Appraiser and an SRA member of the Appraisal Institute.¹⁵ Mr. Forrester has been conducting residential real estate appraisals for just over 30 years. He is currently employed as an appraiser investigator with the Board and has testified on behalf of the Board at SOAH and in civil matters. Mr. Forrester is the immediate past president of the Austin Chapter of the Appraisal Institute.¹⁶

Mr. Forrester explained that a real estate appraiser is a market analyst that collects, verifies, and analyzes market data to derive a value determination. As such, any misrepresented or unreliable data will result in unreliable or non-credible value. For a lender who is deciding whether to loan money for a property, an appraisal is necessary to ensure that the property is worth the amount of the loan.¹⁷ Mr. Forrester further explained that mortgage fraud can occur when a person purchases property at real market value, then inflates the value (using an inflated appraisal report), and induces the bank to lend more money than the property is worth. An appraiser that inflates the value of the property in his or her report benefits the person committing the fraud.¹⁸

Mr. Forrester also explained the process of conducting an appraisal. He indicated that an appraiser would receive an assignment from his client. The appraiser would likely do some preliminary work such as consulting local tax records, getting the approximate size of the

¹⁴ Staff Ex. 24 at 1432.

¹⁵ Tr. at 185. The SRA designation is bestowed upon appraisers who have demonstrated expertise and knowledge of appraising residential properties over and above the average appraiser.

¹⁶ Tr. at 186; Staff Ex. 9 at 898.

¹⁷ Tr. at 186-188.

¹⁸ Tr. at 188-189.

structure, the age, the acreage, etc. The appraiser would typically make an appointment to view the property, which would include measuring the outside of the structure, taking photos of the outside, going inside and noting all upgrades and renovations, and generally trying to gather as much information as possible by talking to the homeowner, if possible. An appraiser would also drive around the neighborhood to get a feel for the general area. Afterwards, the appraiser would take the data to his or her office and search for properties that have recently sold that are as similar as possible to the property under review.

Appraisers use three primary approaches or methodologies to determine value: the sales comparison, income, and cost approaches. Under the sales comparison approach, the appraiser analyzes recent sales of property for characteristics such as improvement size (square footage), lot size, quality of construction, and location, thereby seeking to find the sale of the property that is most similar, *i.e.*, most comparable, to the property being appraised. Using the income approach, the appraiser determines the likely income stream and expenses associated with rental property. Under the cost approach, the appraiser considers the cost of the land, plus the cost of constructing or reconstructing the improvements, less depreciation. The cost approach is more applicable to new properties because an appraiser does not have to account for depreciation.¹⁹

The Board received complaints on three properties from the fraud intake unit of the Texas Department of Insurance (TDI) and from the fraud unit of the Federal National Mortgage Association (Fannie Mae). In response to these complaints, Mr. Forrester conducted an investigation, which included a review of Respondent's workfiles and appraisals, and his own appraisal of the properties using the data available at the time Respondent performed his appraisals.²⁰

¹⁹ Tr. at 191-194.

²⁰ Tr. at 198-199; 202.

3. Respondent's Expert Witness

Diana Jacob Tidwell (Ms. Jacob) is an Appraisal Qualification Board (AQB) USPAP-certified instructor and author specializing in compliance and regulatory issues. She was an original member of the Education Council of Appraisal Foundation Sponsors, educators who met to develop the criteria for writing the 15-hour USPAP education course, and she has sat on the AQB USPAP Exam Committee. She is also one of five persons in Texas who, under the Mentor Program, act as mentors to appraisers who have been disciplined by the Board. Currently, she also serves on the Appraisal Foundation Advisory Council as a representative of the Association of the Texas Appraisers.²¹

Ms. Jacob is a certified residential appraiser in Louisiana and a general level appraiser in North Carolina, but she is no longer appraising properties for a fee and is not certified in Texas. Because Ms. Jacob is not a licensed appraiser in Texas, she did not review and evaluate Respondent's appraisal reports. Rather, she looked at Mr. Forrester's findings and reviewed Respondent's reports to determine and reference Mr. Forrester's allegations.²²

III. ANALYSIS

A. Brownstone Units

Respondent issued an appraisal report for the 4007 Brownstone unit on November 5, 2007, effective November 2, 2007. On November 26, 2007, Respondent issued an appraisal report for the 4004 Brownstone unit, with an effective date of October 25, 2007.²³ The 4007 Brownstone unit was listed (under contract) when Respondent issued his appraisal report; the 4004 Brownstone unit was not listed.²⁴

²¹ Tr. at 632-634.

²² Tr. at 713-714.

²³ Staff Ex. 9 at 926, 827.

²⁴ Tr. at 426; Staff Ex. 10 at 1018.

1. Listing History

Staff alleges that Respondent failed to disclose, analyze, and reconcile significant and material information concerning the Brownstone units' listing histories in his appraisal reports, in violation of the following USPAP standards and rules:²⁵

- USPAP Standard 1-5(a): an appraiser must, if such information is available in the normal course of business, analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal;
- USPAP Standard 2-2(b)(viii): the report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-6(a) and (b): an appraiser must reconcile and analyze the quality and quantity of data available and reconcile the applicability or suitability of the approaches used;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly alters an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

The appraisal reports for both Brownstone units contain statements that “[t]he subject property is currently not listed ‘for sale’” and “[n]o prior sale information is currently

²⁵ The PFD lists allegations in same order as in Staff's initial brief. Staff also alleges that Respondent's actions violated the USPAP Ethics Rule pertaining to conduct and 22 Texas Administrative Code § 153.20(a)(9), now found at § 153.20(a)(12). Those allegations are discussed below in Sections III.C. and D.

available.”²⁶ However, according to Respondent’s workfile, the 4004 Brownstone unit had a list price of \$395,000 as of June 18, 2007. The unit was reduced to \$339,000 and did not sell after 92 days on the market.²⁷ Respondent appraised the property at a value of \$406,000 as of October 25, 2007.

When asked why he appraised the 4004 Brownstone unit for \$406,000, Respondent stated that the client added updates and improvements to the unit and presented a contract for sale to him. Yet the listing indicates that the unit would have been completed in September (one month before the appraisal report), and the listing references a number of amenities such as wrought iron gated entry, private backyards, rooftop decks, granite in kitchen and master, dual sinks, separate shower, and jetted tub, which presumably would have been the updates and improvements Respondent was told were being built.²⁸ Respondent did admit that he did not fully indicate in the appraisal report why the property had previously been for sale for a lower amount but was, at the time of the appraisal, worth a higher amount. Respondent admitted there were errors in the report, but he also testified that he was provided with “additional contracts that I actually relied upon that I have since found out were falsified. At the time they were provided to me, it definitely had an effect on the way I looked at the property. . . . I was also told, after conversations with the builder, that the properties were not finished.”²⁹ Even so, Respondent agreed that if there were contracts for other units, he should have disclosed the listing history and explained the basis for his appraisal.³⁰ He admitted that he could have and should have put down all the data in the appraisal report even if he had been presented with information that the property was not yet a “finished product.”³¹

²⁶ Staff Ex. 10 at 968, 1020; Tr. at 75; Staff Ex. 10 at 1012.

²⁷ Staff Ex. 10 at 1133; Tr. at 78-80.

²⁸ Staff Ex. 10 at 1122; Tr. at 90. Respondent also indicated to the Board, in his written response to the 4007 Brownstone complaint, that the Brownstone townhome project was complete before he contacted Hearn Capital Mortgage on October 31, 2007, and subsequently began the appraisal process. Staff Ex. 5 at 499.

²⁹ Tr. at 93.

³⁰ Tr. at 94. *See also* Tr. at 70-71, 94. Respondent should have provided data sources, the offering prices and the corresponding dates. He did not.

³¹ Tr. at 70, 72.

Respondent's testimony was consistent with his written response to the Board, where he indicated that he performed a search for prior sales and also relied on information from James Johnston, who told him that any previous listings did not include any "over-budgeted items."³²

Staff witness Mr. Forrester testified that, when he researched the 4004 Brownstone unit, he confirmed that similar units were above average and of good quality construction. However, his review indicated that the properties were not extensively remodeled before Respondent's appraisal.³³

Similarly, the 4007 Brownstone unit was listed in the Multiple Listing Service (MLS) archive on June 19, 2007, at \$395,000 but was reduced to \$380,000, then to \$339,000, and finally to \$299,000.³⁴ Respondent also appraised this unit at \$406,000. At the hearing, Respondent testified that he did not recall whether he knew about this sales history when he wrote his appraisal report for this unit.³⁵ In his initial response to the Board's inquiry, Respondent stated that he researched the MLS archive and was able to locate an expired listing for \$404,000, but was told by Mr. Johnston that the listing was not really an active listing. After the Board notified Respondent about the 4007 Brownstone investigation, Respondent indicated that he spoke with Tom Hill, at the Arlington Board of Realtors, and conducted research on the unit using the MLS to determine why he had failed to locate the prior sale history. Respondent also spoke with an appraisal mentor. Respondent believes that different appraisers found different results.³⁶

³² Staff Ex. 5 at 499. Mr. Johnston appears to be a builder involved with the Brownstone units. Hearn's Capital Mortgage was Respondent's client.

³³ Tr. at 217-218.

³⁴ Staff Ex. 11 at 1297; Tr. at 85-87. Respondent testified that the MLS service is a searchable, electronic database that real estate agents subscribe to and list properties on the market. Tr. at 89.

³⁵ Tr. at 85, 88.

³⁶ Staff Ex. 5 at 499.

The form Respondent used for the Brownstone appraisal reports have a number of places where an appraiser is required to disclose a previous sale. Respondent consistently omitted this information from the appraisals.³⁷ The form also includes a number of certifications made by Respondent, including:

No. 5: I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.

No. 15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.

Respondent's witness Ms. Jacob testified that Respondent should have included the listing history of the subject unit in each Brownstone appraisal. If the listing history was not relevant, it was Respondent's duty to explain why he discounted it. However, Ms. Jacob, after listening to the Respondent's testimony, could not testify whether Respondent purposely excluded required information or if he simply failed to properly research the properties. She did explain that, even if the listing history for each unit was in his workfiles, appraisers may have items in their workfiles that they did not use, even though they gathered such data.³⁸ Ms. Jacob also stated that if Respondent diligently talked to people involved in the transaction, such as the realtor, the builder, and the loan officer, he would be in a better position to understand the Brownstones' listing histories. Moreover, if Respondent had a sale contract for the 4007 Brownstone unit, she indicated that he should question why there was a low sales listing but a high contract value.³⁹

³⁷ Tr. at 83.

³⁸ Tr. at 719-722.

³⁹ Tr. at 727.

According to Mr. Forrester, there was no legitimate explanation for misrepresenting the listing history except that Respondent was intentionally and deliberately trying to inflate the value of the subject properties. When Mr. Forrester conducted his investigation, he spoke with the listing agent for the 4004 Brownstone unit, Richard Scott, who indicated that he had listed the property for \$339,000 in 2007 and the units were complete when they were listed. Respondent had referenced Mr. Scott in his workfile.⁴⁰

Mr. Forrester also addressed the issue concerning the higher value contracts for similar Brownstone units that Respondent testified affected his appraisal analysis. According to Mr. Forrester, an appraiser is required to reconcile different documents and data, verify it, and then arrive at a value determination.⁴¹ Mr. Forrester noted that Respondent should have reconciled the contract for \$404,000 and the sales listing of \$229,000 over a three-month period and explained why the property was worth over \$400,000. Mr. Forrester explained that a contract is reflective of a *price*, not the *value* of the property.⁴²

Staff argues that Respondent indicated in his appraisals for the Brownstone units that “[v]alues in the area are felt to be stable with the supply and demand felt to be in balance,”⁴³ and “[v]alues in the area should continue to remain stable within the foreseeable future. Supply and demand is felt to be in balance which indicates a stable market.”⁴⁴ These statements, contend Staff, make it more difficult to reconcile how Respondent believed the units were worth over \$400,000 when they had been unable to sell at lower prices in a stable market.

ALJ Analysis. The ALJ finds that Staff met its burden to show that Respondent failed to disclose, analyze, and reconcile significant and material information concerning the Brownstone

⁴⁰ Tr. at 216-218.

⁴¹ Tr. at 221, 223.

⁴² Tr. at 224-226.

⁴³ Staff Ex. 10 at 960, 1012.

⁴⁴ Staff Ex. 10 at 966, 1019.

units' listing histories in his appraisal reports. Because the differences in the sales listings for both Brownstone units were significantly lower than the value shown in his appraisals, the evidence supports a finding that Respondent's errors were substantial and significantly affected the appraisals. While the evidence indicates that Respondent failed to do a proper analysis for either Brownstone unit, he explained that he allowed existing contracts to influence him, and he relied on information presented to him by his client. The ALJ finds that his appraisals did not meet USPAP standards, but the ALJ does not find sufficient evidence to determine that Respondent knowingly made material representations or committed fraud. Rather, the appraisals contained significant errors, especially in light of Respondent's experience.

2. Sales Comparison Approach

Staff alleges that Respondent incorrectly performed a sales comparison approach for the Brownstone units. Staff contends Respondent selected superior and incomparable properties to use as comparables in his appraisal reports and searched by price for predetermined values, in violation of:⁴⁵

- USPAP Standard 1-4(a): when a sales comparison approach is necessary for credible results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion;
- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;

⁴⁵ The PFD lists allegations in same order as in Staff's initial brief. Staff also alleges that Respondent's actions violated the USPAP Ethics Rule pertaining to conduct and 22 Texas Administrative Code § 153.20(a)(9). A discussion of each of these allegations is found below in Sections III.C. and D, respectively.

- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

The ALJ first discusses Staff's allegation that Respondent selected non-comparable sales and then addresses Staff's allegation that Respondent improperly searched by price.

a. Comparable Sales

i. Respondent's Comparables

In order to perform an appraisal using the sales comparison approach, an appraiser must look at comparable sales. Respondent used the same comparable sales for both Brownstone units.⁴⁶ He agreed that, using the sales comparison approach, an appraiser tries to find properties that are similar to the property being appraised—for instance, similar location, living area, square footage, and lot size. Respondent agreed that Comparable (Comp) No. 3, a condominium, was much nicer than the Brownstone townhome units, so he made a \$50,000 downward adjustment for superior quality of construction and price per square foot, although he admitted that he did not fully explain his reasoning.⁴⁷ A look at the photographs of the interior of Comp No. 3 and the Brownstone units support a finding that Comp No. 3 is of superior construction.⁴⁸ Moreover, Comp No. 3 is a condominium not a townhome. A person buying a townhome will own the land and a buyer of a condominium will purchase the four walls surrounding the home and a percent interest in the common area.⁴⁹ While Respondent admitted that Comp No. 3 may not have been the best comparable, he stated that Fannie Mae allows a townhouse to be compared to another

⁴⁶ See Staff Ex. 10 at 1013 and 961.

⁴⁷ Tr. at 98, 106-107.

⁴⁸ Compare Staff Ex. 15 at 1310 with Respondent Ex. 2 at 44.

⁴⁹ Tr. at 276.

similar product such as a condominium.⁵⁰ He also stated that he made an error when he used it because he failed to notice it was a condominium.⁵¹

As to Comp No. 2, it appears to have a superior view than the Brownstone units.⁵² Respondent indicated that he did not actually view the roof deck on Comp No. 2 because he did not have access to the property (although he could have called the real estate agent to do so). In fact, Respondent listed the view on Comp No. 2 as inferior and added \$10,000 to the value of the comparable. Additionally, Comp No. 2 was eight years old when Respondent appraised it.⁵³

Concerning Comp No. 1, Respondent listed the sales price as \$415,000 although the sales price on the MLS listing indicated "\$340,000 Z."⁵⁴ A "Z" indicates that the price is not verifiable. However, Respondent testified that he did not see the "Z." If he had, he could have tried to call the real estate agent to verify the amount. He did not.⁵⁵

ii. Mr. Forrester's Review

Mr. Forrester reviewed the comparables used by Respondent. He also performed his own search for comparables that were available during the same time period and found that Respondent's comparables did not represent the most recent, proximate, and physically similar sales to the subject property. Specifically, Mr. Forrester stated that Comp No. 3 is a condominium not a townhome, has a superior view, and has superior quality of construction. Although Respondent made a large adjustment to this comparable because it was superior,

⁵⁰ Tr. at 112.

⁵¹ Tr. at 114.

⁵² Compare Staff Ex. 15 at 1308 with Respondent Ex. 2 at 44; Tr. at 255.

⁵³ Staff Ex. 10 at 1013; Tr. at 120-121.

⁵⁴ See Staff Ex. 5 at 517.

⁵⁵ Tr. at 120-123.

Mr. Forrester testified that it would be better to use available property that was more similar to the subject property.⁵⁶

Mr. Forrester testified that Comp No. 2 has a clearly superior view as compared to the Brownstone units, which do not have a view of the Dallas skyline. Yet Respondent made a positive \$10,000 adjustment to reflect that Comp No. 2 had an inferior view.⁵⁷ Mr. Forrester opined that it was not necessary to use an eight-year-old property because there were new townhomes within close proximity to the Brownstone properties.⁵⁸

Concerning Comp No. 1, Mr. Forrester testified that the sales price, which was listed as \$415,000 Z, was overstated by \$75,000.⁵⁹ Mr. Forrester noted that Respondent had called the listing agent for that property to inquire about square footage—he should have known to ask about the sales price because it was a “Z” listing. Mr. Forrester contacted the same listing agent and found out that the sales price in 2007 was \$340,000.⁶⁰ Moreover, Comp No. 1 is located a block from Greenville Avenue, which has shops and stores. Mr. Forrester explained that an appraiser can conduct an MLS search by neighborhoods. In Mr. Forrester’s opinion, Comp No. 1 is in a different neighborhood than Brownstone properties, and it was inaccurate for Respondent to have listed them in the same location. Mr. Forrester, using the same information that Respondent had access to in 2007, found that properties in the Greenville area sold in a range from \$85,000 to \$871,000, with an average of \$385,484. The Brownstone area properties sold in a range from \$71,000 to \$585,000, with an average of \$270,337. The two areas had an approximate difference of \$115,000 in average sales price.⁶¹

⁵⁶ Tr. at 248-251.

⁵⁷ Tr. at 251-255; compare Staff Ex. 15 at 1308 to Respondent Ex. 2 at 44.

⁵⁸ Tr. at 255-257; Staff Ex. 15 at 1306.

⁵⁹ Respondent’s appraisal report also contained a typographical error concerning the address.

⁶⁰ Tr. at 262-263.

⁶¹ Tr. at 264-269; Staff Ex. 10 at 1012; Staff Ex. 12 at 1298, 1299.

iii. Mr. Forrester's Expertise

Respondent argues that the Board's expert witness, Mr. Forrester, failed to comply with USPAP in conducting his appraisals of the properties at issue. However, the Board's rule exempts investigators from USPAP compliance:

A Jurisdictional Exception is adopted for the members, staff, and peer review committee members of the Texas Appraiser Licensing and Certification Board for all appraisal reviews relating to enforcement and disciplinary cases, applications, renewals, and experience verification audits.⁶²

Respondent also took issue with the ability of Mr. Forrester to perform an appraisal of Dallas-area properties because his experience is with Austin-area markets. Ms. Jacob testified that Mr. Forrester does not work in the Dallas area and lacks the required day-to-day knowledge to perform appraisals. According to Ms. Jacob, Mr. Forrester would need to first attain competency before performing Dallas-area appraisals.⁶³ However, Ms. Jacob agreed she did not dispute Mr. Forrester's opinion of value or his opinion as to what was a comparable property.⁶⁴

iv. Ms. Jacob's Testimony

Ms. Jacob indicated that, although a condominium is a different product from a townhome in terms of how the land is owned, the lifestyle and building design is very similar. While she would prefer that an appraiser use the same product—in this case a townhome—if there were no other sales, a condominium would be a more appropriate or comparable sale than a detached single-family structure. If a different product is chosen, however, the appraiser should address any differences in the appraisal report.⁶⁵

⁶² 22 Tex. Admin. Code § 155.1(b).

⁶³ Tr. at 658.

⁶⁴ Tr. at 717.

⁶⁵ Tr. at 658-659.

ALJ Analysis. By a preponderance of the evidence, the record evidence supports Staff's position that Respondent selected comparables that were not truly comparable properties. Ms. Jacob's testimony that Mr. Forrester's lacked expertise to conduct an appraisal was credible, but Mr. Forrester was not performing an appraisal for a client, he was conducting a review. Mr. Forrester exhibited a general familiarity with the Dallas-area, he visited the area, and he actually viewed Respondent's comparables. Mr. Forrester's testimony that there were other newly constructed townhomes in the market area that were more similar to the Brownstone units was uncontroverted. Moreover, the remarks Respondent made in the Brownstone appraisal reports that the subject properties had observation decks with similar views to the comparable (or for Comp 2, a better view) was not borne out by the picture evidence or by Mr. Forrester's testimony. Finally, Respondent indicated in discovery that he had experience and expertise with the market area, having just completed a project located several blocks from the Brownstones. Unfortunately, Respondent did not demonstrate his experience at the hearing and did not show that the comparables he used were indeed comparable to the subject properties and that other comparables referenced by Mr. Forrester were not more appropriate.⁶⁶

b. Search for Price

In a response to the Board Staff concerning the 4007 Brownstone property, Respondent stated:

As you can clearly see townhomes were ranging from \$155.00-\$184.00 per square foot for inferior properties versus the subject property. I selected to utilize this townhome for a base value for the subject property. I selected to utilize the Median [sic] price per square foot of (\$159.00 X 2,500 = \$397,500). I considered this a good place to start for my selection of comparables.⁶⁷

According to Mr. Forrester, Respondent's statement indicates that he used MLS to search for price, which allows a person to exclude properties below (or above) a certain amount.

⁶⁶ Also compare Staff Ex. 4 at 420, 492-493 with Staff Ex. 5 at 500.

⁶⁷ Staff Ex. 5 at 499.

Excluding any low sales inflates the sales values of area properties and, according to Mr. Forrester, allows an appraiser to aim for a specific price. Mr. Forrester indicated that the correct way to search for comparables is to use gross living area, age, or location as search criteria and not be concerned with the sales price. He believes that searching by sales price is another indicator of mortgage fraud.⁶⁸

Respondent disagreed. He testified that he did not conduct a search based on sales price. Rather, he conducted a search for properties that had a comparable square-foot price.⁶⁹

Q. [Staff] Isn't it true, sir, right there on Bates 499 and 500 you just said I searched based on the minimum price?

A. [Respondent] Absolutely not. I based on a – I tried to find a range of 155 to 184 to calculate against. It has nothing to do with the price.

Q. So “397,500, I considered this a good place to start,” did you search for properties that were worth less than 397,500?

A. Absolutely.

Q. Well, then –

A. I didn't search on sales price. I searched on price per square foot.

Q. How come all of your comparables that you picked are over \$400,000?

A. The price per square feet are very similar, though. . . .⁷⁰

Respondent continued to explain that he used a middle range on the high side because he had seen some of the properties that were selling for \$325,000, and they were not at all comparable.⁷¹ Later in the hearing, Respondent explained his overall process for appraisals. When appraising, he would begin by searching by “subject addition” or similar homes: at the time of the Brownstone appraisals, Respondent found ten townhomes. He then would search by square footage, location, amenities, and design. He explained that he would conduct a search by square foot after the other searches were completed because the report requires an appraiser to search by sales price and report the active listings and closings. Respondent stated that he did

⁶⁸ Tr. at 272-275.

⁶⁹ Tr. at 177-178; Staff Ex. 5 at 499.

⁷⁰ Tr. at 177-178.

⁷¹ Tr. at 179.

not know the value before he began and was not taught to start the process by searching by price.⁷²

Respondent testified that the appraisal report form he used requires a search by square foot. The place where the report requires an appraiser's input is located on the page with the list of comparables. At the top it states: "There are [blank] comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ [blank] to \$ [blank]" and "There are [blank] comparable sales in the subject neighborhood within the past 12 months ranging in sale price from \$ [blank] to \$ [blank]."⁷³ He testified that he used objective criteria for an original search in MLS.

Q. [Staff] Okay. So then you didn't need to search by price to answer this? [Referring to report requirements.]

A. [Respondent] Well, again, my understanding of the question was to run it by sales price.

Q. Well, that's what I'm confused about. I want you to pick which one. Either your testimony is you needed to search by price to answer these questions or are you saying, "I didn't search by price to answer these questions. I searched by square footage"?

A. But these ranges were found in the first run.

Q. Okay. So you're saying that when you ran your sales originally, you were searching by objective criteria?

A. Correct.⁷⁴

...

Q. [Respondent's attorney] Is what you're saying that you search objectively to get the value of the subject. Right?

A. [Respondent] Absolutely not.

Q. Okay. Once you have the value of the subject – let's pretend it's \$150 a square foot, from objective criteria.

A. Correct.

Q. Then you assume that the market, if they're buying a house worth \$150 a square foot, might would go from 140 to 160 a square foot?

A. Correct.

Q. And then you run to see what's in that market for 140 –

A. Correct.

⁷² Tr. at 620.

⁷³ Staff Ex. 10 at 961 (one example).

⁷⁴ Tr. at 628-629.

Q. I see. That's what I thought you were saying, yes. Okay. You realize you wouldn't have to do that if you could just pull it off those sheets. Right? Why do you do it then, at 140 to 160?

A. Because that's where the range is falling for the square footage.⁷⁵

Ms. Jacob presented testimony concerning this issue from an instructor's point of view. She explained that using price as criteria in a search will target a market, a performance, and a value that might not be there. When an appraiser receives a contract for the subject property, his or her job is not to find the value according to the contract but to analyze the property's market and indicate whether the contract appears reasonable. According to Ms. Jacob, the Appraisal Institute has a definition of how an appraiser should undergo a comparable sale selection. It clearly indicates that an appraiser should never search by price only, but, in a discussion about bracketing (*i.e.*, looking at comparable or similar relevant units), price is one of the units used in a search. Ms. Jacob testified that she had an experience with an appraiser who misunderstood this and used price as a beginning point rather than just one method for searching. Using price as a beginning point is clearly incorrect. Ms. Jacob further testified that there is no specific USPAP provision that prohibits searching by price. Rather, USPAP requires an appraiser to employ proven techniques necessary to develop a credible opinion of value.⁷⁶

ALJ Analysis. This is a difficult issue to determine. In his written response to the Board, Respondent indicated that he selected a price per foot to begin his selection of comparables. Yet Respondent testified repeatedly that he did not conduct an MLS search by price at the outset. Rather, he stated that he used objective criteria. Although it appears that most appraisers use the outcome of initial searches to fill in the price ranges of comparable properties currently offered for sale and properties sold in the past 12 months, Respondent instead performed another search by square foot to fill in the information required on the appraisal forms.

⁷⁵ Tr. at 630.

⁷⁶ Tr. at 673, 675-678.

Staff supports its position—that Respondent was incorrectly and fraudulently searching by price—by the fact that all the comparables Respondent used were priced over \$400,000. Staff further points out that Respondent tried to explain that the Fannie Mae appraisal report form required him to search by price, but Staff disputes this.

The ALJ finds that Respondent incorrectly searched by price. In his response to the Board Staff, Respondent indicated that he began his selection for comparables with a search by price per square foot. He then explained his next steps, which included inspection and a research of land value.⁷⁷ Respondent's explanation that he searched by price only to fill in necessary information on the appraisal reports did not make sense because he would have had information concerning price ranges for comparable properties based on searches, using other criteria. Moreover, the ALJ found Ms. Jacob's testimony on this issue to be instructive: it is likely that Respondent mistakenly used price as a beginning point rather than a search to verify his results from other searches or as a simple means for determining price ranges for comparables.

The ALJ acknowledges that Respondent testified repeatedly that he did not initially search by price. This is at odds with other evidence and, ultimately, the ALJ's finding. However, Respondent's error in this regard did not appear to be fraudulent in nature. Rather, based on his demeanor and admitted confusion, he conveyed to the ALJ that he had a fundamental misunderstanding and that misunderstanding was reflected in his choice of comparables.

3. Neighborhood and Market Area Trends

Staff alleges that Respondent failed to truthfully disclose and analyze the neighborhood and market area trends in violation of:⁷⁸

⁷⁷ Staff Ex. 5 at 499-500.

⁷⁸ The PFD lists allegations in same order as in Staff's initial brief. Staff also alleges that Respondent's actions violated 22 Texas Administrative Code § 153.20(a)(9). A discussion of this allegation is found in Section III.D. of the PFD.

- USPAP Standard 1-3(a): an appraiser must identify and analyze the effect on use and value of existing land use regulations, reasonable probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends;
- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

Respondent testified that appraisal reports should include a summary of an appraiser's reasoning and analysis. For instance, under the "Supplemental Addendum," an appraiser should include neighborhood and market comments. For the Brownstone units, Respondent indicated, "[t]he area consists of average to luxury quality dwellings which appear to be receiving above average maintenance and upkeep."⁷⁹ However, Respondent admitted that the immediate area also included some run-down properties, which were typical or average for that area. At the time of the appraisal, a few area houses were dilapidated, falling-down, and boarded up. Respondent admitted this was not fully explained in his appraisals.⁸⁰ According to Respondent, the properties were changing: for instance, some "crack houses" were being replaced with expensive townhomes.⁸¹

⁷⁹ Staff Ex. 10 at 966.

⁸⁰ Tr. at 64-65.

⁸¹ Tr. at 64.

Staff witness Mr. Forrester testified that the Brownstone area, when he viewed the property in 2012, included properties that were “scuzzy,” such as dilapidated buildings, boarded up commercial properties, and garbage dumpsters on the corner. Mr. Forrester took pictures of the area five years after the appraisal. He also spoke to people in the neighborhood. He concluded that, in 2007, the area did not consist of average to luxury quality dwellings, as Respondent indicated in the Brownstone appraisals. Rather, he found that the area included several run-down houses. He confirmed the neighborhood was generally the same in 2007 by talking to a person who worked across the street from the Brownstone property. In his opinion, the inconsistency is another indicator of mortgage fraud.⁸²

Mr. Forrester also stated that Respondent failed to describe the neighborhood boundaries correctly, which skewed the data and represented that the neighborhood was more prosperous. According to Mr. Forrester, Respondent’s neighborhood area was huge and did not accurately reflect the true neighborhood. In his opinion, this is often done in cases of mortgage fraud to inflate the value.⁸³ Staff argues that Respondent was familiar with the area and should not have indicated that the area consists of average to luxury quality dwellings without also noting that other area dwellings that were in a state of disrepair or neglect. However, Mr. Forrester also admitted that the market changed significantly after the financial crisis in September of 2008, which could leave properties in worse condition.⁸⁴ Moreover, Mr. Forrester could not explain why the neighborhood search he conducted using smaller boundaries came up with similar data to the search Respondent conducted using greater neighborhood boundaries.⁸⁵

Respondent witness Ms. Jacob agreed with Mr. Forrester that if there were run-down houses in the Brownstone area, Respondent should have disclosed it because an appraiser is

⁸² Tr. at 270; Staff Ex. 12 at 1319.

⁸³ Tr. at 227-228; Staff Ex. 9 at 876.

⁸⁴ Tr. at 340, 343.

⁸⁵ Tr. at 429-430.

required to “tell the whole story.”⁸⁶ She further agreed that failure to disclose the complete character of the neighborhood is another typical red flag in mortgage fraud cases.⁸⁷ However, Ms. Jacob indicated that the neighborhood boundaries used by Respondent and Mr. Forrester appeared to be the same because the MLS runs were the same.⁸⁸

ALJ Analysis. The ALJ finds that Respondent failed to truthfully disclose and analyze the neighborhood and market area trends. If the area had some run-down properties, Respondent had an obligation to explain why he indicated in the report that the area consisted of average to luxury quality dwellings with above-average maintenance. The ALJ concurs with Staff that these statements made the neighborhood sound more affluent than it was, and an appraiser must present a clear picture for the lender, who is not familiar with the area. However, the ALJ did not find sufficient evidence that Respondent’s neighborhood boundaries were incorrectly drawn. Respondent clearly had the necessary expertise, and the data from the MLS runs did not support Staff’s position on this issue.

4. Cost Approach

Staff alleges Respondent misrepresented the data regarding the cost approach. In particular, Staff took issue with: (1) the cost of construction of improvements to the Brownstone properties; and (2) lack of support for his lot values. According to Staff, these are violations of:⁸⁹

- USPAP Standard 1-4(b)(i-iii): when a cost approach is necessary for credible results, an appraiser must develop an opinion of site value by an appropriate appraisal method or technique; analyze comparable cost data to estimate the new

⁸⁶ Tr. at 746.

⁸⁷ Tr. at 747.

⁸⁸ Tr. at 704-705.

⁸⁹ The PFD lists allegations in same order as in Staff’s initial brief. Staff also alleges that Respondent’s actions violated the USPAP Ethics Rule pertaining to conduct and 22 Texas Administrative Code § 153.20(a)(9). A discussion of these general allegations is found in Section III.C. and D. of the PFD.

cost of improvements, if any; and analyze data to estimate the difference between the cost new and the present worth of the improvements;

- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

a. Construction Costs

A cost approach analysis is applicable to new construction such as the Brownstone units because a purchaser will not want to pay more for a property than it would cost to hire a builder and construct the unit. Moreover, an appraiser does not have to account for depreciation.⁹⁰ Both Respondent and Mr. Forrester agreed that the cost approach sets the upper range of value.⁹¹

Using a Marshall & Swift cost manual, Mr. Forrester calculated a replacement cost of \$94.21 per square foot for the 4007 Brownstone unit while Respondent calculated the replacement cost at \$130 per square foot.⁹² Mr. Forrester admitted that an appraiser has some discretion in calculating the number by indicating if the quality of construction is average, but he

⁹⁰ Tr. at 163, 192.

⁹¹ Tr. at 192.

⁹² Tr. at 300-312; *compare* Staff Ex. 18 at 1330 *with* Staff Ex. 10 at 1014. Appraisers generally subscribe to Marshall & Swift. Tr. 315.

stated he performed the calculation using “good quality” construction as did Respondent. Respondent did not include any notes in his workfiles showing the calculations for determining the cost of construction. Mr. Forrester concluded that Respondent inflated the Marshall & Swift analysis or did not use Marshall & Swift at all.⁹³

Staff also argues that, because the cost of construction tends to set the upper limit of value, Respondent should have easily recognized that something was amiss when his cost approach calculations were indicating values way above the units’ listing histories particularly since these were brand new construction properties.

Respondent testified he used Marshall & Swift to reach a construction cost of \$130 per square foot. He explained that the initial Marshall & Swift amount was much lower (\$90 or \$95 per square foot) but there were so many improvements that he added to that base.⁹⁴ Respondent argues that the cost approach did not contribute significantly to the overall value and any error would not violate USPAP. Respondent also contends that the cost approach manual often results in an erroneous cost indication and is not necessary to produce a credible result.

ALJ Analysis. Mr. Forrester produced cost figures using the same inputs as Marshall & Swift but calculated lower cost figures than did Respondent. The ALJ finds credible Respondent’s testimony that he had access to Marshall & Swift. However, Respondent did not have any support for his calculations in his workfile, in violation of USPAP requirements. At the hearing, Respondent did not present convincing evidence that his construction costs were reasonable and supported. However, Staff did not present evidence that the inflated construction costs affected the appraisal values for the Brownstone properties.

⁹³ Tr. at 312-313. Respondent did not have a Marshall & Swift subscription; he used or shared a subscription from another appraiser. Tr. at 315-317.

⁹⁴ Tr. at 167-168.

b. Lot Values

Once an appraiser determines the cost of the construction and improvements, he or she will add the cost of the lot. The Brownstone appraisal reports include a statement that the site value was based on “land sales, developers, and appraiser’s information.”⁹⁵ At the hearing, Respondent referenced a number of properties listed as land sales that he used to support a \$60,000 lot value.⁹⁶ However, Staff witness Mr. Forrester testified that Respondent failed to support his lot values either in the appraisal reports or in his workfiles. He noted that the listings Respondent included in his workfiles included information for some tracts listed in the millions of dollars, which would not be a recognized method to support lot value. Mr. Forrester stated that an appraiser is required to give some type of analysis and explanation, but Respondent failed to do so.⁹⁷

Respondent argues that he had support for his lot values and that the lot value was insignificant to the determination of the overall property value.

ALJ Analysis. The ALJ concurs with Staff that Respondent did not have support for his lot values in his reports or in his workfiles. This is a violation of the USPAP requirement that appraisal report numbers must be supported either in the report itself or in the appraiser’s workfile. However, Staff did not present evidence that the lot values significantly affected the value of the Brownstone units.

⁹⁵ Staff Ex. 10 at 1014.

⁹⁶ Tr. at 169-172; see Staff Ex. 10 at 1119, listing of lot addresses, cost, cost per square foot, type of sale.

⁹⁷ Tr. at 306-307.

5. Other Allegations

a. Site Size

Staff also alleged that Respondent misrepresented the size of the Brownstone units' sites, in violation of USPAP Standard 1-2(e)(i) and 2-2(b)(iii). Mr. Forrester found that Respondent inaccurately reported the size of the entire tract on which the Brownstone units are located and concluded that this is a USPAP violation.⁹⁸ Respondent admitted that his appraisal reports should have better explained that the site size total referred to the entire property before it was platted into small lots.

ALJ Analysis. The evidence shows that Respondent erred in his Brownstone reports, in violation of USPAP. Staff did not put forth evidence that this error affected Respondent's value determination.

b. Zoning Classification

Staff alleged that Respondent failed to consider and report the Brownstone units' correct zoning classification in violation of USPAP Standard 1-2(e)(iv) and 2-2(b)(viii). Mr. Forrester found that Respondent misreported the zoning, which should have been PD-298 according to the City of Dallas.⁹⁹ Mr. Forrester admitted that appraisers misreport zoning classifications very often (100% of the time).¹⁰⁰

ALJ Analysis. The evidence shows that Respondent erred in filing out the zoning classifications on his Brownstone reports, in violation of USPAP. Staff did not put forth evidence that this error affected Respondent's value determination.

⁹⁸ Staff Ex. 9 at 875.

⁹⁹ Staff Ex. 9 at 875.

¹⁰⁰ Tr. at 420-421.

c. Highest and Best Use

USPAP Standard 1-3(b) requires that when the value opinion to be developed is market value, an appraiser must develop an opinion of the highest and best use of the property. USPAP Standard 2-2(b)(ix) requires that, when reporting an opinion of market value, an appraisal report must summarize the support and rationale for the appraiser's opinion of the highest and best use of the property. Mr. Forrester pointed out that Respondent indicated that the present use was the "present use" but failed to provide support for that determination.

ALJ Analysis. The evidence indicates that Respondent failed to provide support for his highest and best use determination in violation of USPAP Standards 1-3(b) and 2-2(b)(ix). Staff did not put forth evidence that this error affected Respondent's value determination.

B. Edgewood Property

Respondent issued a summary appraisal report for the Edgewood property on August 1, 2007, with an effective date of June 26, 2007. Mr. Forrester found that Respondent produced a misleading appraisal report, with numerous material misrepresentations and omission of material facts. He stated that Respondent deliberately and intentionally inflated the value of the property to arrive at a predetermined value. Specifically, Staff alleges Respondent violated a number of USPAP Standards in his appraisal of the Edgewood property. These are discussed below.

1. Listing History

Staff alleges that Respondent failed to disclose, analyze, and reconcile significant and material information concerning the Edgewood property's listing history in his appraisal report, in violation of the following USPAP standards and rules:¹⁰¹

¹⁰¹ The PFD lists allegations in same order as in Staff's initial brief. Staff also alleges that Respondent's actions violated the USPAP Ethics Rule pertaining to conduct and 22 Texas Administrative Code § 153.20(a)(9). A discussion of these allegations is found below in Sections III.C. and D., respectively.

- USPAP Standard 1-5(b): an appraiser must, if such information is available in the normal course of business, analyze all sales of the subject property that occurred within the three years before the appraisal effective date;
- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;
- USPAP Standard 1-6(a) and (b): an appraiser must reconcile and analyze the quality and quantity of data available and reconcile the applicability or suitability of the approaches used;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly alters an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

The Edgewood property, a newly constructed home at the time of the appraisal, is in a single family residential subdivision located in DeSoto, Texas. The builder was D.R. Horton. On the first page of the appraisal report, Respondent indicated that the owner of public record was “TLH & Associates,” and that the builder, D.R. Horton, sold the property to TLH & Associates.¹⁰² Yet Respondent’s appraisal report stated that his “research did not reveal any prior sales or transfers of the subject property.”¹⁰³ On the appraisal report, under “Date of Prior

¹⁰² Tr. at 139-140; Staff Ex. 10 at 1179.

¹⁰³ Staff Ex. 10 at 1180; Tr. at 132; Tr. at 128-130.

Sale/Transfer,” Respondent typed: “None/MLS.”¹⁰⁴ On a page titled “Property History of Subject Property” in the appraisal report, Respondent checked boxes indicating that the subject property had no change of ownership in the last three years and that the Grantor/Grantee was TLH & Associates, with an indication that Respondent’s data source was “Builders.”¹⁰⁵ At the end of the appraisal report, Respondent again indicated: “No prior sale information is currently available.”¹⁰⁶ At the hearing, Respondent could not recall whether D.R. Horton had sold the property to TLH & Associates, but he admitted he stated that in his appraisal report so he must have known it at the time.¹⁰⁷

Included in Respondent’s workfile is an inventory/sales sheet from the builder, D.R. Horton. The sheet includes a handwritten reference to Shirley Kotwani and a phone number. Respondent admitted that the handwriting was his, but he could not recall her connection with D.R. Horton. He admitted that if she were the closing coordinator for D.R. Horton, it would have been a common practice for him to have spoken with her because she would know the builder’s sales history.¹⁰⁸ The inventory/sales sheet is a list of 16 homes, one of which is at 809 Edgewood, with a builder’s price of \$218,295, an offer price of \$179,635, and an estimated value of \$238,050. Respondent appraised this same property at \$255,000.¹⁰⁹ Referring to the inventory/sales sheet, Respondent explained that this was a cash deal for bulk properties.¹¹⁰ He admitted that he erred by excluding the information about the sale from the builder to TLH & Associates in his appraisal report.¹¹¹

¹⁰⁴ Staff Ex. 10 at 1180.

¹⁰⁵ Staff Ex. 10 at 1185.

¹⁰⁶ Staff Ex. 10 at 1186.

¹⁰⁷ Tr. at 140.

¹⁰⁸ Tr. at 136-138; Staff Ex. 10 at 1294.

¹⁰⁹ Tr. at 143; Staff Ex. 10 at 1294.

¹¹⁰ Tr. at 142-143.

¹¹¹ Tr. at 144.

Mr. Forrester testified that the failure of an appraiser to list prior sales histories is often a warning sign of fraudulent activity.¹¹² He noted that the Edgewood property sold on July 9, 2007, for \$179,635, yet Respondent appraised it on August 1, 2007, for \$255,000. Mr. Forrester stated that a competent, ethical appraiser would need to reconcile the previous sale, but Respondent failed to do so.¹¹³ As to the issue of bulk sales, Mr. Forrester admitted that all 16 sales on the inventory/sales sheet closed around the same time. Moreover, approximately 12 or 13 of the properties on the list (including the Edgewood property) were part of a mortgage fraud schemes with two main culprits, TLH & Associates and Jas Bell Construction, responsible for most of the listed sales.¹¹⁴

Staff points out that Respondent misrepresented the Edgewood sales history at seven different locations on four different pages of the appraisal report.¹¹⁵ Staff dismisses Respondent's contention that the Edgewood property was part of a bulk sale and, therefore, was heavily discounted. Staff also points out that Respondent did not previously disclose his theory that the bulk sales should be discounted when he submitted documents and orally responded to the Board Staff during the complaint stage of the investigation. Staff argues that Respondent's claims are not credible. Moreover, Respondent does not have any notation in his workfile that the builder inventory/sales sheet are bulk sales or that Respondent talked with the closing coordinators about bulk sales. There were no such notations in his files. Mr. Forrester testified that he checked the builder inventory/sales sheet listings with the Dallas County Appraisal District tax records and spoke with the closing coordinator. He believes that the sales were not bulk sales; rather, the properties sold to different individuals. He further stated that some sales amounts listed on the builder's inventory/sales sheet were lower than listed on the sheet. Mr. Forrester concluded that Respondent's explanation about bulk sales was not credible.¹¹⁶

¹¹² Tr. at 212-213.

¹¹³ Tr. at 291-292.

¹¹⁴ Tr. at 765-769.

¹¹⁵ See Tr. at 131-135; 136; Staff Ex. 10 at 1180, 1183, 1185, and 1186.

¹¹⁶ Tr. at 753-756.

Ms. Jacob testified that a bulk sale could result in discounted prices. While there may be numerous reasons for a bulk sale, the primary reason is that the seller, often the builder, wants out of the market. Ms. Jacob indicated that, if Respondent was right to exclude other bulk-sale listings as comparable properties, he still should have explained why he was excluding such listings.¹¹⁷

ALJ Analysis. The evidence supports a finding that many of the properties listed on the inventory/sales sheet were used in fraud and, therefore, were essentially bulk or discounted sales. The ALJ found credible Ms. Jacob's testimony that bulk sales may not have been appropriate to rely on for determining an appraisal value. Thus, Respondent could have discounted the bulk sales if he had explained his rationale in his appraisal report. But Respondent clearly violated USPAP by failing to include the prior sales history of the Edgewood property. While Staff argues that Respondent repeatedly presented untruthful information, the ALJ notes that Respondent's failure to list any sales history was consistent in his report. At the hearing, Respondent could not explain why he had omitted the sales history except to say that he was unable to locate any information about it. Ms. Jacob and Mr. Forrester both explained that an appraiser should investigate, reconcile, or at least make note if there is conflicting information. On the face of the Edgewood appraisal report, there was conflicting information and no explanation.

2. Sales Comparison Approach

Staff alleges that Respondent misrepresented information and analysis in the sales approach for the Edgewood appraisal, as he did for the Brownstone properties, in violation of the following standards:¹¹⁸

¹¹⁷ Tr. at 689-690.

¹¹⁸ These allegations are listed in the order of Staff's initial brief. Staff also alleges that Respondent's actions violated the USPAP Ethics Rule pertaining to conduct and 22 Texas Administrative Code § 153.20(a)(9). A discussion of each of these main allegations is found in Sections III.C. and D.

- USPAP Standard 1-4(a): when a sales comparison approach is necessary for credible results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion;
- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

In his report, Respondent used three comparables. Comp No. 2 was a home built by D.R. Horton; the other comparables were built by a competing builder, Standard Pacific Homes, and they were located in Cedar Hill, Texas. Respondent testified that there were few comparable sales in the area, so he chose comparable properties from competing builders within the market area and with similar school districts. He indicated that, because of the builder's bulk sale, properties in and around the Edgewood neighborhood were located in a discounted bubble so he used comparable properties outside the immediate area in order to perform a market valuation based on an arm's length transaction, not on the builder's bulk sale.¹¹⁹ But he admitted that he should have disclosed his rationale for excluding area properties on the appraisal report.¹²⁰

¹¹⁹ Tr. at 156-159; Staff Ex. 24 at 1432-1433.

¹²⁰ Tr. at 176.

In his closing brief, Respondent points out that he used comparables from an area with similar properties, which is allowed under USPAP because an appraisal is an opinion of value and his actions were within the judgment allowed to an appraiser. The appraisal itself notes that:

The subject property is located within a small pocket of new [sic] construction homes surrounded by million dollar+ estates. Very few new construction homes are available. Therefore this appraiser found it necessary to widen the search area to competing areas within a 5 mile radius. Sale #1 and Sale #3 are selected from competing builder [sic], whereas, Sale #2 is selected from the subject addition.¹²¹

Staff witness Mr. Forrester testified that Respondent did not select sales that were similar to the Edgewood property and that there were other, closer properties that were available. Yet, in his review checklist, Mr. Forrester stated that there were no recent (verifiable) sales similar to the subject in the Edgewood subdivision. Rather, there were very similar sales in adjoining and nearby subdivisions.¹²² Mr. Forrester specifically took issue with the comparables located in Cedar Hill, which were located almost three miles away from the subject property. He found there were other sales in the area that were readily available. When he performed his appraisal of the Edgewood property using 2007 data, Mr. Forrester located area sales in DeSoto that ranged from \$170,000 to \$210,000. These figures comported with the recent (bulk) sale of \$179,635 from the builder to TLH & Associates for the subject property. Mr. Forrester concluded that Respondent used comparables outside the subject area to support the contract value of \$252,000 and to appraise the property at \$255,000.¹²³

Mr. Forrester also noted that Respondent chose non-verifiable sales for all three of his comparables. These are sales that come from the builder and, thus, cannot be publicly verified. According to Mr. Forrester, the use of non-verifiable builder sales is not a recognized method of

¹²¹ Staff Ex. 7 at 721.

¹²² Staff Ex. 9 at 907. *See also* Staff Ex. 4 at 407. This is an appraisal by for Genworth Financial (which filed a complaint with the Board about the Edgewood property). The Genworth Financial appraiser noted that his comparable properties were all located in excess of one mile from the subject property.

¹²³ Tr. at 297, 299-300; Staff Ex. 20 at 1340.

the sales comparison approach and violated USPAP 1-1(a) and 1-4(a).¹²⁴ If such a sale is used, an appraiser would need to verify the information from the builder by looking at a closing statement, talking with the closing coordinator, or contacting the buyer. Mr. Forrester testified that Respondent did not verify the comparables except to note in his workfile a phone number for Standard Pacific Homes. He stated this was insufficient documentation to support verification.¹²⁵ However, Mr. Forrester admitted that USPAP does not prohibit or mention non-verifiable sales. Rather, Fannie Mae's supplemental standards in 2007 contained guidelines that recommended an appraiser use only verifiable sales.¹²⁶

ALJ Analysis. The evidence supports a finding that Respondent did not fully disclose his rationale for selecting homes outside the Edgewood area. If he excluded the sales on the inventory/sales sheet because they were bulk sales, he did not disclose such. The ALJ agrees with Staff that Respondent should have explained his rationale for his selection of the Cedar Hill properties (similar schools, etc.) and why properties near the Edgewood property were not comparable. And Respondent's workfile should have contained such information. The evidence further indicates that Respondent did not verify the builder sales as required by the Fannie Mae guidelines, but this was not shown to be a USPAP violation. However, the ALJ does not conclude that Respondent's choice of comparables was improper. Respondent, who had more experience in the DeSoto area than did Mr. Forrester, indicated there were few new builder sales in the area.¹²⁷ While Mr. Forrester found otherwise, he may have been using the sales listed on the inventory/sales sheet, which likely should have been discounted or further explained. Without additional evidence, Staff did not meet its burden to prove Respondent's choice of comparables was incorrect.

¹²⁴ Tr. at 293; Staff Ex. 9 at 907.

¹²⁵ Tr. at 294-296.

¹²⁶ Tr. at 474-476.

¹²⁷ Similarly, the Genworth Financial appraiser also used comparable properties in excess of one mile from the Edgewood property.

3. Neighborhood and Market Area Trends

Staff alleges that Respondent failed to truthfully disclose and analyze the neighborhood and market area trends in violation of:¹²⁸

- USPAP Standard 1-3(a): an appraiser must identify and analyze the effect on use and value of existing land use regulations, reasonable probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends;
- USPAP Standard 2-2(b)(viii): a report must state the appraisal methods and techniques employed, state the value opinions and conclusions reached, and reference the workfile;
- USPAP Standard 1-1(a): an appraiser must be aware of, understand, and correctly employ recognized methods and techniques necessary to produce a credible appraisal;
- USPAP Standard 1-1(b): an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal;
- USPAP Standard 1-1(c): an appraiser must not render service in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affects the credibility of those results; and
- USPAP Standard 2-1(a): each report must clearly and accurately set forth the appraisal in a manner that is not misleading.

In the Edgewood property appraisal report, Respondent indicated that: “[v]alues in the area should continue to remain stable within the foreseeable future. Supply and demand is felt to be in balance which indicates a stable market.”¹²⁹ Staff questioned why Respondent would indicate that the area was stable yet the Edgewood property (and others listed in the builder’s inventory) had sold for significantly less. In response, Respondent stated he thought the property

¹²⁸ These allegations are listed in the order of Staff’s initial brief. Staff also alleges that Respondent violated 22 Texas Administrative Code § 153.20(a)(9). A discussion of this allegation is found below in Section III.D.

¹²⁹ Staff Ex. 10 at 1189; Tr. at 146.

was worth more than the greatly discounted bulk sale because the builder wanted out of that area.¹³⁰ However, Respondent conceded that he should have explained his reasoning in the appraisal report and reconciled the market data.¹³¹ He reiterated that he did not rely upon the bulk sales because they were not arm's length transactions.¹³²

Staff witness Mr. Forrester took issue with Respondent's indication in the Edgewood appraisal report that the area was stable. He noted that Respondent admitted in his written response to the Board that the builder wanted out of the area and discounted the properties like "a fire sale."¹³³ He also noted that the area contained vacant lots.¹³⁴

ALJ Analysis. The ALJ finds that Respondent failed to fully explain in his appraisal report how the values in the area were stable given that a number of properties near the Edgewood property had sold for less in bulk sales. The ALJ agrees with Respondent that the bulk sales should have been discounted; however, the appraisal report should have noted the sales, and Respondent should have explained his rationale for excluding such sales.

4. Additional Alleged Violations

a. Site Description

Staff also alleged in its Statement of Charges that Respondent failed to identify and report the Edgewood site description in violation of USPAP Standards 1-2(e)(i) and 2-2(b)(iii). Respondent did not identify that the Edgewood property adjoined a middle school (the backyard overlooked the school running track). Mr. Forrester testified that this could have a positive or

¹³⁰ Tr. at 149.

¹³¹ Tr. at 150-151. In fact, although Respondent admitted that he should have more "fully explained" the prior sales data, he did not list the prior sales at all in his appraisal report. See Tr. at 150, 152-153.

¹³² Tr. at 175-176.

¹³³ Tr. at 303.

¹³⁴ Tr. at 304; Respondent Ex. 1 at 2-3.

negative affect on a property, and Respondent should have disclosed it and checked to see if any other comparable properties were similarly situated.¹³⁵

ALJ Analysis. The ALJ finds that Respondent violated USPAP because he did not mention this feature in his appraisal report. However, there was no showing that this materially affected the overall Edgewood property value determination.

b. Zoning Classification

Mr. Forrester noted that Respondent misreported the zoning classification. However, Mr. Forrester agreed that many appraisers incorrectly report zoning.¹³⁶

ALJ Analysis. The ALJ concurs that Respondent incorrectly reported the zone, in violation of USPAP Standard 1-2(e)(iv). Staff did not put forth evidence that this error affected Respondent's value determination.

c. Highest and Best Use

USPAP Standard 1-3(b) requires that when the value opinion to be developed is market value, an appraiser must develop an opinion of the highest and best use of the property. USPAP Standard 2-2(b)(ix) requires that, when reporting an opinion of market value, an appraisal report must summarize the support and rationale for the appraiser's opinion of the highest and best use of the property. Mr. Forrester pointed out that Respondent indicated that the highest and best use was the "present use" but failed to provide support for that determination.

ALJ Analysis. The evidence indicates that Respondent failed to provide support for his highest and best use determination in violation of USPAP Standards 1-3(b) and 2-2(b)(ix). Staff did not put forth evidence that this error affected Respondent's value determination.

¹³⁵ Tr. at 466-467; Staff Ex. 9 at 904.

¹³⁶ Staff Ex. 9 at 904; Tr. at 428.

C. USPAP Ethics Rules

1. Workfile Requirements

The USPAP Ethics Rule pertaining to record keeping requires an appraiser to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions.¹³⁷ Staff notes that the very definition of the word "workfile" in USPAP is "documentation necessary to support an appraiser's analysis, opinions, and conclusions."¹³⁸ Staff alleges Respondent failed to maintain a required workfile in all three of his appraisals containing all data, information, and documentation necessary to support his opinions. Mr. Forrester testified that an appraiser is required to keep true copies of any written reports or any type of media that support any analysis and conclusions. These documents must be kept in the workfile or an appraiser can reference where the documents are located (such as the study bookshelf).¹³⁹

Ms. Jacob testified that the USPAP workfile should include the appraisal report itself and whatever the appraiser communicated and concluded; proof must actually be contained in the workfile or the proof must be noted in the workfile. A reviewer should be able to follow behind the appraiser and do what the appraiser did. She further explained that the actual paperwork or copies of the data source do not need to be in the workfile, but the workfile must reference the data source (such as the MLS, Marshall & Swift, tax records). Such a reference should be specific enough that a reviewer could go to that source and get the same information.¹⁴⁰

Staff argues that merely citing to an MLS database or a subscription service that an appraiser does not own or have copies of is insufficient. Mr. Forrester testified that an appraiser could conduct research, print everything on an electronic file, and upload the printed document

¹³⁷ Tr. at 209.

¹³⁸ Staff Ex. 3 at 40.

¹³⁹ Tr. at 358.

¹⁴⁰ Tr. at 643, 646-648.

to a CD, but Respondent did not do this. Mr. Forrester indicated that failing to store the documents shifts the burden of the workfile requirement to a third party that does not have the duty to maintain the information.¹⁴¹ For instance, Mr. Forrester stated that he could not determine from Respondent's Brownstone property workfile how Respondent determined a \$60,000 lot value.¹⁴²

ALJ Analysis. The evidence supports a finding that Respondent failed to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions for all three appraisals. This is a USPAP Ethics Rule violation. For instance, if Respondent had the MLS searches documented, he could have supported his testimony that he did not conduct a search by price. He could have supported his construction costs and lot values. Both expert witnesses, Ms. Jacob and Mr. Forrester, explained that maintaining workfiles that allow another appraiser to follow each step of an appraisal is a fundamental part of an appraisal report.

2. Conduct

The USPAP Ethics Rule pertaining to conduct provides in relevant part:

- An appraiser must not communicate assignment results with the intent to mislead or to defraud.
- An appraiser must not use or communicate a misleading or fraudulent report.¹⁴³

Staff alleged that Respondent violated the conduct portion of the USPAP Ethics Rule by knowingly and intentionally communicating assignment results in a misleading and fraudulent manner with the intent to deceive and inflate the value in the appraisal report and reach a pre-

¹⁴¹ Tr. at 756-757.

¹⁴² Tr. at 758.

¹⁴³ Staff Ex. 3 at 42.

determined value. According to Staff, Respondent agreed that “if I say something that’s not true, that’s going to be misleading because it gives someone the wrong impression.”¹⁴⁴

Staff witness Mr. Forrester found that Respondent produced misleading appraisal reports, with numerous material misrepresentations and omission of material facts. He stated that Respondent deliberately and intentionally inflated the value of the properties to arrive at predetermined values.¹⁴⁵ Mr. Forrester noted that Respondent’s errors or mistakes all led to a higher property values; not one error resulted in lowering the appraised property’s overall value.¹⁴⁶

Mr. Forrester agreed that the legal definition of an appraisal reflects that it is an “opinion” of value. He further agreed that two reputable appraisers might use different appraisal amounts but the resulting appraisals should be within a 5% range.¹⁴⁷ When TDI referred the fraud case to the Board, TDI noted that for the 4004 Brownstone, another appraisal indicated a value of \$354,000 (Respondent appraised it at \$406,000). For the 4007 Brownstone unit, Respondent’s appraisal value was \$406,000; a “retro” appraisal value was \$305,000.¹⁴⁸ Respondent, noting these different appraisal amounts, takes issue with Mr. Forrester’s opinion that two reputable appraisers would issue appraisal reports within a 5% range.

ALJ Analysis. This is the main issue in the case: whether Respondent communicated assignment results in a misleading or fraudulent manner. The totality of the evidence, particularly Respondent’s demeanor, supports a finding that the mistakes Respondent made, while very serious, were not purposely done to support the fraudulent schemes that resulted from these appraisals. The ALJ disagrees with Staff that the three appraisal reports “epitomize

¹⁴⁴ Tr. at 30. This was Staff’s question to Respondent, who replied, “I would believe so, yes.” Tr. at 30.

¹⁴⁵ Tr. at 205.

¹⁴⁶ Tr. at 205, 319.

¹⁴⁷ Tr. at 338-340.

¹⁴⁸ Staff Ex. 4 at 420; Staff Ex. 4 at 282.

intentional and knowing bad acts done for the purpose of inducing others to rely on hollow representations.”¹⁴⁹ Respondent’s testimony led the ALJ to conclude that he was careless and overly influenced by information provided to him by the builders and brokers, such as signed contracts for a Brownstone unit. He failed to reconcile information that was contradictory. He failed to find pertinent information, or if he did, he failed to maintain such information in his workfiles. Rather than being purposely misleading, the ALJ found that Respondent, despite his years of experience, produced appraisal reports that contained serious errors and inflated results.

Although Ms. Jacob did not conduct an investigation, the ALJ found Ms. Jacob’s opinion to be very persuasive. Ms. Jacob listened to all the testimony at the hearing and agreed that Respondent likely violated USPAP on several occasions. But she would not agree with Staff that Respondent intentionally mislead his clients. She agreed that Respondent did not properly develop his appraisal reports. However, she would not opine—based on the testimony she heard—that Respondent intentionally misled in his appraisal reports. Stated differently, Ms. Jacob did not agree that Respondent performed an analysis and then changed it in order to intentionally mislead. The ALJ finds there is a large difference between serious mistakes that resulted in inflated values versus *intent* to mislead or commit fraud. Staff does not acknowledge this distinction. Staff’s contention is that Respondent purposefully inflated property value with an intent to mislead or commit fraud. While the ALJ agrees with Staff that Respondent’s errors were significant and resulted in inflated values, the evidence does not support a finding that Respondent *intentionally* misrepresented material facts. Rather, Respondent failed to verify information supplied to him by his clients; failed to use due care in selecting comparables (or in explaining his choice of comparables); failed to fully disclose and analyze the neighborhoods or market area trends; failed to correctly list the properties’ sales histories, and committed smaller errors that did not likely change the determination of values for the properties. But Respondent’s testimony that he did not know that the appraisal reports were going to be used in fraud was convincing, whereas Staff’s allegation that Respondent committed knowing bad acts was

¹⁴⁹ Staff initial brief at 45.

unsupported.¹⁵⁰ The evidence supports a finding that Respondent failed to properly conduct appraisals but not a finding that he intended to communicate in a misleading manner.

Finally, the Board's Penalty Matrix sets out a range of recommended action based on whether the violations were done willfully or in a grossly negligent manner. The evidence supports a finding that Respondent was negligent through his submission of appraisal reports that exhibited a lack of due care in his failure to fully explain his thought processes, to list previous sale history, and to maintain proper workfiles. The sum total of all the errors Respondent committed in these appraisals leads the ALJ to conclude that Respondent was careless to the level of being grossly negligent.

D. Board Rules

The Board may suspend or revoke a license, certification, authorization, or registration or deny issuing a license, certification, authorization, or registration to any applicant at any time when it has determined that the person applying for or holding the license, certification, or registration has made a material misrepresentation or omission of material fact.¹⁵¹

The evidence supports a finding that Respondent, through a number of errors, made material misrepresentations and omitted material facts. Respondent failed to disclose, analyze, and reconcile the listing history of both the Brownstone units and the Edgewood property. Respondent selected superior properties as comparables to the Brownstone units. Respondent failed to explain and verify his comparable properties to the Edgewood property. For the Brownstone units, Respondent incorrectly used price to conduct a search for comparables. Respondent failed to disclose and analyze the neighborhood and market area trends for both the

¹⁵⁰ Staff argues that Respondent exhibited selective knowledge of certain facts, which should weigh against his credibility. Again, the ALJ found Respondent to be a generally credible witness and attributed his certainty (and uncertainty) with some issues to be based on both his preparation for the hearing with his attorney and the fact that the events occurred five years ago.

¹⁵¹ 22 Tex. Admin. Code § 153.20(a)(9), now 22 Tex. Admin. Code § 153.20(a)(12).

Brownstone units and the Edgewood property. These errors resulted in material misrepresentations.

E. Sanction Recommendation

The Board may suspend or revoke a certification if a person fails to comply with USPAP.¹⁵² The Board has adopted a penalty matrix which bases the severity of the penalty imposed on the history of similar violations and the seriousness of the violation.¹⁵³ The least onerous penalties are recommended if the violations do not constitute evidence of a serious inability or unwillingness to comply with the legal standards; more onerous penalties are recommended if the violations demonstrate a serious but remedial deficiency; and the most onerous penalties are recommended if the violations were done willfully or in a grossly negligent manner. For a first occurrence of violations of the Act, Board rules, or USPAP, revocation is recommended only for violations that demonstrate willfulness or gross negligence.

In addition to the guidelines outlined in the matrix, Staff may recommend any or all of the following:

- (i) reducing or increasing the recommended penalty based on documented factors that support the deviation, including but not limited to the number or seriousness of the violation(s) and degree of harm to the public;
- (ii) probating all or a portion of a sanction or administrative penalty for a period not to exceed five years;
- (iii) requiring additional reporting requirements; and
- (iv) such other recommendations, with documented support, as will achieve the purposes of the Act (Code ch. 1103) , the Rules (22 Texas Administrative Code ch. 153, 154, and 155), and/or USPAP.¹⁵⁴

¹⁵² 22 Tex. Admin. Code § 153.20(a)(3), renumbered effective December 27, 2010, as § 153.20(a)(6).

¹⁵³ 22 Tex. Admin. Code § 153.24(9).

¹⁵⁴ 22 Tex. Admin. Code § 153.24(9)(B).

The ALJ has found the following USPAP violations:

Brownstone Units	
USPAP 1-5(a)	Respondent failed to analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal
USPAP 1-6(a) and (b)	Respondent failed to reconcile and analyze the quality and quantity of data available
USPAP 1-1(a)	Respondent failed to correctly employ recognized methods and techniques necessary to produce a credible appraisal
USPAP 1-1(b)	Respondent omitted sales history, which significantly affected the appraisal. Respondent committed a substantial error of omission or commission that significantly altered his appraisal
USPAP 1-1(c)	Respondent performed his appraisals in a careless or negligent manner, such as making a series of errors that, although individually might not significantly affect the results, in the aggregate affected the credibility of those results
USPAP 1-4(a)	Respondent did not analyze comparable sales data
USPAP 1-4(b)(i-iii)	Respondent did not properly analyze comparable cost data when using the cost approach
USPAP 1-3(a)	Respondent did not identify and analyze the market area trends
USPAP 1-2(e)(i) and 2-2(b)(iii)	Respondent did not adequately identify and report the site description
USPAP 1-2(e)(iv)	Respondent did not properly identify the zoning classification
USPAP 1-3(b)	Respondent did not provide support for his highest and best use determination
USPAP Ethics Rule	Respondent failed to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions
Edgewood Property	
USPAP 1-5(b)	Respondent did not analyze all sales of the subject property that occurred within the three years before the appraisal effective date
USPAP 2-2(b)(viii)	Respondent failed to support the opinion of site value or reference the workfile
USPAP 1-6(a) and (b)	Respondent did not reconcile and analyze the quality and quantity of data available, namely the bulk sales of area properties
USPAP 1-1(a)	Respondent failed to correctly employ recognized methods and

	techniques necessary to produce a credible appraisal
USPAP 1-1(b)	Respondent committed a substantial error of omission or commission that significantly altered his appraisal
USPAP 1-1(c)	Respondent performed his appraisals in a careless or negligent manner, such as making a series of errors that, although individually might not significantly affect the results, in the aggregate affected the credibility of those results
USPAP 1-4(a)	Respondent did not analyze comparable sales data
USPAP 1-3(a)	Respondent did not identify and analyze the market area trends
USPAP 1-2(e)(i) and 2-2(b)(iii)	Respondent did not adequately identify and report the site description
USPAP 1-2(e)(iv)	Respondent did not properly identify the zoning classification
USPAP 1-3(b)	Respondent did not provide support for his highest and best use determination.
USPAP Ethics Rule	Respondent failed to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions

The ALJ did not find that Respondent violated USPAP 2-1(a) by issuing a report in a misleading manner. There was no evidence that Respondent was misleading in his reports. Rather, Respondent performed his appraisals in a careless manner, and the errors in his reports were consistent (such as his failure to note the Brownstone units' sales histories in multiple places on the reports). Respondent did not communicate the results of his analysis in a misleading or a fraudulent manner. Rather, his analysis contained significant errors leading to appraisal reports with inflated values. Similarly, for the Brownstone units, the ALJ did not find that Respondent violated USPAP 2-2(b)(viii), which requires the report to state the appraisal methods used, the value opinions and conclusions, and reference the workfile. Staff did not show that those appraisal reports were deficient. In other words, even though there were errors in the methods and techniques Respondent used, he referenced the methods in his reports.

Respondent has been appraising property for 27 years. He has been licensed for 21 years and has not had a previous complaint. He was paid from \$325 to \$375 for his appraisals.

Mr. Forrester admitted that he did not find any check or bribe connected with the fraud and Respondent.¹⁵⁵ Instead, Mr. Forrester believed that Respondent committed “fraud for free.”¹⁵⁶

Respondent testified that he did not intentionally inflate the value of the subject properties. He did not intentionally mislead or predetermine a value. He received the normal fee for his work, and he was not promised extra business. For the Brownstone units, Respondent was contacted by the broker, Hearn Capital, and the broker provided contracts, contact information, buyers’ names, etc. Respondent testified that he received the assignment before he spoke with anyone and had completed the Brownstone appraisals before the broker gave him the contract, which was signed on November 4, 2007, after the appraisal report date of November 2, 2007.¹⁵⁷

Respondent testified that the same sequence occurred for the Edgewood appraisal: he was contacted by a broker, they sent him an order, and then he performed the appraisal.¹⁵⁸ Concerning the Edgewood property, Mr. Forrester testified that as many as 12 or 13 of the 16 properties listed on the builder’s list were involved in mortgage fraud that involved independent appraisers but involved only five separate buyers.¹⁵⁹ This evidence and Respondent’s testimony suggests that independent appraisers such as Respondent were unaware that the properties were going to be used in a fraudulent scheme. Nonetheless, the ALJ finds that Respondent’s failure to conduct his appraisals according to USPAP standards and Board rules allowed fraud to occur.

As noted above, the ALJ found that Respondent committed a number of violations. Respondent has been an appraiser a long time, therefore, his appraisal reports should have been more accurate and, more importantly, contained more analysis with support for his analysis in his

¹⁵⁵ However, another appraiser, Russell Easton, was receiving bribes. Although the ALJ in that case recommended revocation, the Board did not revoke Mr. Easton’s license. Tr. at 401-402.

¹⁵⁶ Tr. at 379.

¹⁵⁷ Tr. at 581-584.

¹⁵⁸ Tr. at 585.

¹⁵⁹ Tr. at 764-767.

workfiles. Further, the ALJ found that Respondent's gross negligence inflated the value in all three appraisals. For the Brownstone units, he relied on contracts with inflated values, which affected his analysis. Clearly, if Respondent is to continue to work as an appraiser, he needs education and mentoring.

Respondent testified that he learned a great deal about appraising as a result of this case. For instance, he has a different understanding of USPAP, the appraisal process, and which form to use for certain appraisals. He admitted that, although he has been doing appraisals for 27 years, he had misconceptions and problems. He agreed that he would change his practice if he performs appraisals in the future. Although he has taken on-line continuing education in the past, Respondent stated that he would not take any on-line courses again because in-person training was more likely to be of higher quality.¹⁶⁰

Finally, Respondent noted that the Board has often given a Notice of Warning for the same violations at issue in this case. The Board warned one appraiser to give special attention to: quantifying and supporting land value, replacement cost, and adjustments in the sales comparison approach; providing sufficient market information; presenting a report in a manner that is not misleading; committing errors of omission and commission in a manner that affects value; and preparing a report with care so as to avoid inflating the value.¹⁶¹ Similarly, the Board issued a Notice of Warning for complaints involving a failure to discuss and analyze a contract of sale on the subject, failing to provide support for opinions and conclusions, failing to support land value, failing to comply with USPAP record keeping, and failing to disclose and analyze factors affecting the comparable sales.¹⁶²

Although Staff seeks revocation of Respondent's certification and a \$5,000 administrative penalty, based on Respondent's testimony, Ms. Jacob's testimony, and the

¹⁶⁰ Tr. at 588-590.

¹⁶¹ Respondent Ex. 12 at 76, Board Notice of Warning dated May 29, 2012.

¹⁶² Respondent Ex. 12 at 77, 79, 81, 82.

evidence, the ALJ believes a lesser penalty is proper. The ALJ recommends an administrative penalty of \$5,000, and a one-year suspension of his license. Once Respondent's suspension is over, Respondent should be required to complete a four-hour day of mentorship each calendar quarter with a Board-approved mentor for the next seven quarters, and submission of a completed mentorship affidavit to the Board following completion of each mentorship session.

IV. FINDINGS OF FACT

1. Tom M. Curran (Respondent) currently holds and, during the times applicable to this case, held general real estate appraiser certification number TX-1321290-R issued by the Texas Appraiser Licensing and Certification Board (Board).
2. On August 13, 2012, staff of the Board (Staff) sent an Original Statement of Charges to Respondent proposing revocation of the certification referred to in Finding of Fact No. 1, and an administrative penalty.
3. On September 27, 2012, Staff sent a notice of hearing to Respondent.
4. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
5. Administrative Law Judge Lilo D. Pomerleau convened the hearing on the merits on October 30 through November 1, 2012, at the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas. Staff appeared through attorney Troy Beaulieu. Respondent was represented by attorney Ted Whitmer. After the taking of evidence and written argument, the record closed on January 4, 2013, with the filing of briefs.
6. Respondent has practiced as an appraiser since 1985, primarily in the Dallas, Texas area.
7. Respondent has been licensed since June 18, 1991, and has had no previous disciplinary proceedings with the Board.
8. Market value is a type of value, stated as an opinion, which presumes the transfer of property as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser in an appraisal.

9. Appraisers use three primary approaches or methodologies to determine value: the sales comparison, income, and cost approaches. Respondent used the sales comparison approach and the cost approach in his appraisals at issue.
10. Under the sales comparison approach, the appraiser analyzes recent sales of property for characteristics such as improvement size (square footage), lot size, quality of construction, and location, thereby seeking to find the sale of the property that is most similar, *i.e.*, most comparable, to the property being appraised.
11. Under the cost approach, an appraiser considers the cost of the land, plus the cost of constructing or reconstructing the improvements, less depreciation.
12. The purpose of all three appraisals was for a mortgage finance transaction in which the lender, who was Respondent's client, was seeking to determine the value of the property so the lender/client could make a lending decision.

Respondent's Appraisals of the Brownstone Properties

13. Respondent issued an appraisal report for a property at 4007 Brownstone Court, Dallas, Texas on November 5, 2007, effective November 2, 2007. He also issued an appraisal report for a property at 4004 Brownstone Court, Dallas, on November 26, 2007, with an effective date of October 25, 2007 (together, the Brownstone units).
14. The Brownstone units consisted of newly constructed townhomes with a 2,500 square foot living area, in an area located south of Lemon Avenue, east of Interstate Highway (IH) 35, west of Beacon Street, and north of IH 30, in Dallas.
15. Respondent appraised both Brownstone units at \$406,000, using the sales comparison approach.
16. Respondent also appraised both Brownstone units at \$411,024 using the cost approach, but gave more weight to the sales comparison approach.
17. For the 4004 Brownstone unit, Respondent issued an appraisal report that stated there was no prior sales information currently available. However, this unit was listed for sale at \$395,000 as of June 18, 2007, then was listed for sale at \$339,000, but it did not sell after 92 days on the market.
18. Similarly, for the 4007 Brownstone unit, Respondent issued an appraisal report that stated there was no prior sales information currently available. However, this unit was listed in the Multiple Listing Service (MLS) archive on June 19, 2007, at \$395,000 but it was reduced to \$380,000, then to \$339,000, and finally to \$299,000.

19. Respondent was provided with contracts showing sales of 4002 Brownstone Court and 4006 Brownstone Court, Dallas, Texas, at \$404,000. Respondent allowed these contracts to influence his value appraisal of the Brownstone units.
20. The 4007 Brownstone unit also had a sales contract for \$404,000 when Respondent appraised the unit.
21. Respondent was required to disclose the listing history, reconcile the data (such as the sales contract for other Brownstone units), and explain the basis for his appraisals of the Brownstone units, but he failed to do so.
22. When Respondent issued appraisal reports for both Brownstone units, the properties had already been built with a number of amenities.
23. In order to perform an appraisal using the sales comparison approach, an appraiser must look at comparable sales.
24. Respondent used the same comparable sales for both Brownstone units.
25. Respondent used a comparable with a Z listing, which means the price is not verifiable without an appraiser taking extra steps to verify the sales price. Respondent did not verify the Z listing.
26. Respondent's comparables did not represent the most recent, proximate, and physically similar sales to the subject property. For instance, for one comparable, Respondent used a condominium with superior construction, not a townhome with similar construction materials. Respondent also used another comparable with a view superior to the Brownstone views.
27. Respondent used MLS to search for price in order to find comparable properties.
28. Conducting a search by price allows an appraiser to aim for a specific price. A correct way to search for comparable properties is to use gross living area, age, and/or location as search criteria.
29. Appraisal reports should include a summary of an appraiser's reasoning and analysis.
30. For the Brownstone units, Respondent indicated in his appraisal reports that: "[t]he area consists of average to luxury quality dwellings which appear to be receiving above average maintenance and upkeep." However, the immediate area also included some run-down properties, which Respondent did not disclose in his analysis. Respondent should have fully explained the area and his rationale in his appraisal reports.

31. A cost approach analysis is applicable to new construction such as the Brownstone units because a purchaser will not want to pay more for a property than it would cost to hire a builder and construct the unit.
32. For determining cost of construction for improvements to the property, an appraiser performs a segregated cost analysis by consulting a recognized source such as Marshall & Swift, a valuation service.
33. Respondent did not have any support for his cost of construction calculations in his workfile. There was insufficient evidence that Respondent's cost of construction calculations affected the appraisal values for the Brownstone units.
34. Respondent did not present convincing evidence supporting his lot values. There was insufficient evidence that the lot values Respondent used in his appraisal reports significantly affected the value of the Brownstone units.
35. Respondent inaccurately reported the size of the entire tract on which the Brownstone units are located. There was insufficient evidence that the inaccurate tract size significantly affected the value of the Brownstone units.
36. Respondent failed to report the Brownstone units' correct zoning classification. There was insufficient evidence that the incorrect zoning classification significantly affected the value of the Brownstone units.
37. Respondent failed to provide support for his highest and best use determination. There was insufficient evidence that this lack of support affected the value of the Brownstone units.

Respondent's Appraisal of the Edgewood Property

38. Respondent issued a summary appraisal report for 809 Edgewood Drive, Desoto, Texas, (the Edgewood property) on August 1, 2007, with an effective date of June 26, 2007. Respondent appraised this property at \$255,000.
39. The Edgewood property, a newly constructed home at the time of the appraisal, is in a single-family residential subdivision.
40. The builder, D.R. Horton, sold the Edgewood property to TLH & Associates; however, Respondent's appraisal report indicated that there were no prior sales or transfers of the subject property. Respondent failed to note the Edgewood property's sales history in numerous places on his report.
41. Respondent's workfile contains an inventory/sales sheet from the builder, D.R. Horton. The inventory/sales sheet is a list of 16 homes, one of which is at 809 Edgewood Drive,

with a builder's price of \$218,295, an offer price of \$179,635, and an estimated value of \$238,050.

42. Of the 16 properties listed on the inventory/sales sheet, 12 to 13 properties were used in fraudulent schemes. The Edgewood property was also listed on the inventory/sales sheet.
43. Because the properties were sold in bulk, a reasonable appraiser may have discounted such sales prices. However, if Respondent was treating the properties on the inventory/sales sheet as bulk sales and discounting them, he should have clearly explained in the Edgewood property appraisal report that he was doing so and why.
44. Respondent used two comparable properties that were located in Cedar Hill, Texas, not DeSoto, without explaining the rationale for his selection of properties outside the Edgewood area.
45. Respondent used non-verifiable sales for all three of his comparables for the Edgewood property. Non-verifiable builder sales should be verified by examining closing statements, talking with the closing coordinators, or contacting the buyers.
46. Fannie Mae's supplemental standards in 2007 contained guidelines that recommended an appraiser use only verifiable sales. It is not a USPAP violation to use builder sales of properties as comparable properties.
47. In his appraisal report, Respondent indicated that: "[v]alues in the area should continue to remain stable within the foreseeable future. Supply and demand is felt to be in balance which indicates a stable market." However, Respondent did not reconcile his opinion with the evidence of recent bulk sales in the area.
48. Respondent did not identify in his appraisal report that the Edgewood property adjoined a middle school. There was insufficient evidence that this lack of identification affected the value of the property.
49. Respondent failed to report the Edgewood property's correct zoning classification. There was insufficient evidence that this incorrect zoning classification affected the value of the property.
50. Respondent failed to provide support for his highest and best use determination. There was insufficient evidence that this lack of support affected the value of the Edgewood property.

Findings Common to All Appraisals

51. Although Respondent did not intentionally inflate his value opinion of the three properties at issue, his USPAP errors were careless and resulted in inflated values.

52. The mistakes Respondent made and the USPAP errors, while very serious, were not purposely done to support the fraudulent schemes that resulted from these appraisals
53. The evidence established that Respondent's conduct represents a serious inability to comply with the standards.
54. An appraiser is required to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions.
55. Respondent failed to maintain a workfile with all the data information and documentation necessary to support the appraiser's analysis and conclusions in all three appraisal reports.
56. Respondent, through a number of errors, made material errors and omitted material facts in all three appraisal reports.

V. CONCLUSIONS OF LAW

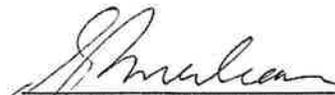
1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act. Tex. Occ. Code (Act) ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code chs. 2001 and 2003.
3. Respondent received adequate and timely notice of the hearing. Tex. Gov't Code §§ 2001.051 and 2001.052.
4. Staff had the burden of proof on its allegations. 1 Tex. Admin. Code § 155.427.
5. Appraisals must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) developed and published by the Appraisal Foundation and in effect at the time the appraisal is performed. Act § 1103.405 and 22 Tex. Admin. Code § 155.1(a).
6. Based on the above Findings of Fact, Respondent violated the following USPAP Standards in effect in 2006-2007: the Ethics Rule regarding recordkeeping and USPAP Standards 1-1(a)-(c), 1-2(e)(i) and (iv), 1-3(a) and (b), 1-4(a) and (b)(i-iii), 1-5(a) and (b), 1-6(a) and (b), 2-2(b)(iii) and (viii).
7. By making omissions of material facts in his appraisals, Respondent violated 22 Texas Administrative Code § 153.20(a)(9) (this rule was renumbered without substantive changes effective December 27, 2012, and is now located at 22 Texas Administrative Code § 153.20(a)(12)).

8. The Board may suspend or revoke the certification of an appraiser who has failed to comply with the applicable USPAP Standards. Act § 1103.518(2)(B) and 22 Tex. Admin. Code § 155.20(a)(3).
9. Based on the foregoing Findings of Fact and Conclusions of Law, and the Board's penalty matrix, the Board should assess an administrative penalty of \$5,000, and suspend Respondent's license for one year. At the end of this suspension period, Respondent should be required to take undertake a mentorship. 22 Tex. Admin. Code § 153.24(9).

VI. RECOMMENDATION

Based on the above Findings of Fact and Conclusions of Law, the ALJ recommends an administrative penalty of \$5,000, suspension of Respondent's license for one year, and, upon reactivation of his license, one four-hour day of mentorship each calendar quarter with a Board-approved mentor for the next seven quarters, and submission of a completed mentorship affidavit to the Board following completion of each mentorship session.

Signed March 4, 2013.



LILLO D. POMERLEAU
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 10

Report by Executive Committee

AGENDA ITEM 11

Report by Budget/Finance Committee

AGENDA ITEM 12

Report by Enforcement Committee

TALCB Board Members

Walker Beard
Chair

Jamie S. Wickliffe
Vice Chair

Laurie C. Fontana
Secretary

Clayton Black

Luis F. De La Garza, Jr

Keith Kidd

Mark A. McAnally

Shannon K. McClendon

Sheryl R. Swift

Douglas E. Oldmixon
Commissioner

Enforcement Committee Report May 17, 2013

Members: Jamie Wickliffe, Chair, Laurie Fontana and Shannon McClendon

Since the February Board meeting, the Enforcement Committee held a committee meeting on April 11, 2013.

Committee Members in attendance: Jamie Wickliffe, Laurie Fontana and Shannon McClendon.

Staff in attendance: Kerri Galvin, General Counsel, Mark Mrnak, SES Director, Troy Beaulieu, Managing Attorney, Kyle Wolfe, Staff Attorney, and Jeff Stawmyer, Chief Investigator.

Public in attendance: Joe Woller representing FACT.

In addition to reviewing the rules proposed by the Board concerning complaint processing with revised sanction guidelines, the committee discussed issues relating to alternative dispute resolution processes, a recommended amendment regarding providing false information to the Board when procuring a license, proposed revisions to the Complaint Intake Form, a policy for adding consequences for non-compliance to Board Final Orders, the jurisdictional exception rule, and possibility of reimbursement of litigation costs by respondents. The Committee appreciates the hours spent by staff and the members of the public who came to the committee meeting and participated in the discussions. Our next meeting is scheduled for June 14, 2013.

Specific recommendations that the Enforcement Committee supports that are on the agenda for action today are:

- Adoption of the amendments to Rule 153.24 concerning Complaint Processing;
- Proposal of amendments to Rule 153.20, concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure;
- Proposal of rules under a new Subchapter E of Chapter 157 concerning Alternative Dispute Resolution;
- Adoption of revisions to the Complaint Intake Form; and
- Adoption of a policy for adding consequences for non-compliance with quantifiable requirements in Board Final Orders.

Items that the Committee is working on include:

- Preparation of a flow chart of the complaint process for the website;
- Review the jurisdictional exception for appraisal reviews for staff and PIC members; and
- Research and consider requiring reimbursement of litigation costs in certain cases.

AGENDA ITEM 13

Report by AMC Advisory Committee

TALCB Board Members

Walker Beard
Chair

Jamie S. Wickliffe
Vice Chair

Laurie C. Fontana
Secretary

Clayton Black

Luis F. De La Garza, Jr

Keith Kidd

Mark A. McAnally

Shannon K. McClendon

Sheryl R. Swift

Douglas E. Oldmixon
Commissioner

AMC Advisory Committee Report May 17, 2013**Members: Jamie Wickliffe, Chair, Sara Oates and Lawrence McNamara**

The AMC Advisory Committee held its first committee meeting on April 11, 2013.

Committee Members in attendance: Jamie Wickliffe, Sara Oates and Lawrence McNamara.

Staff in attendance: Kerri Galvin, General Counsel, Tony Slagle, Government Affairs Specialist, Mark Mrnak, SES Director, Troy Beaulieu, Managing Attorney, Kyle Wolfe, Staff Attorney, and Jeff Stawmyer, Chief Investigator.

Public in attendance: Joe Woller representing FACT.

The Committee reviewed several administrative rule amendments and began discussions regarding potential policies with regard to regulation of AMC's disqualification of appraisers who have had complaints filed against them but dismissed without discipline, jurisdiction over AMC "portals" and a process for hearing complaints by appraisers who were removed by an AMC. The Committee intends to meet again prior to the August Board meeting.

Specific recommendations that the AMC Advisory Committee supports that are on the agenda for action today are:

- Proposal of amendments to Rule 159.159, concerning Disclosure of Registration Number; and
- Proposal of amendments to Rule 159.109 concerning Inactive Status;
- The Committee also decided that the Board's current laws adequately address when an AMC portal would be considered an AMC that would subject to the Board's jurisdiction.

Items that the Committee will address at future meetings are:

- regulation of AMC's disqualification of appraisers who have had complaints filed against them but dismissed without discipline;
- a process for hearing complaints by appraisers who were removed by an AMC; and
- Development of definitions for "1-4 family units" and "prompt payment".



AGENDA ITEM 14

Staff reports by Commissioner, Deputy Commissioner, and Division Directors, which may include reports on processes, monthly activities and statistical data for communications, licensing, education, information technology, staff services, and enforcement; current topics related to regulation of real estate appraisers; discussion of topics raised by monthly reports; introduction of new employees; and questions by Board members to staff regarding issues raised by the staff reports.

Reception and Communication Services Division

Incoming Calls

	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	FYTD Total
Local Lines	15,460	16,585	13,809	11,472	21,683	18,167	17,443						114,619
TALCB LL	1,013	1,183	976	899	1,559	1,212	1,090						7,932
Total Calls	16,473	17,768	14,785	12,371	23,242	19,379	18,533						122,551

Walk Ins

	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	FYTD Total
Licensing	376	425	364	240	410	312	311						2,438
Education	158	209	234	126	282	228	197						1,434
Inspector	12	5	6	7	21	8	19						78
Enforcement	3	7	4	4	8	8	13						47
TALCB Lic	6	8	15	12	10	7	14						72
TALCB Enf	3	0	4	1	1	1	1						11
Total	558	654	627	390	732	564	555						4,080

Emails

	Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	FYTD Total
Licensing	4,331	4,377	3,233	3,241	4,720	3,889	4,136						27,927
Education	847	696	617	867	821	920	830						5,598
Inspector	72	91	55	33	62	32	27						372
Enforcement	167	155	106	81	93	100	128						830
TALCB Lic	82	94	80	86	112	50	67						571
TALCB Enf	9	7	10	15	18	6	7						72
Total	5,508	5,420	4,101	4,323	5,826	4,997	5,195						35,370

C1 Report
FY 2013

ACTIVE CERTIFICATIONS AND LICENSES

Fiscal Year	End of MONTH	GENERAL	RESIDENTIAL	LICENSE	PROV.LIC.	Total G,R,L,&P	G,R,L,P Change	TRAINEE	Trainee Change	TOTAL	Total Change
FY-2008	Sept07	2,268	2,403	942	53	5,666	50	1,166	-25	6,832	25
	Oct 07	2,281	2,419	951	52	5,703	37	1,196	30	6,899	67
	Nov 07	2,291	2,436	950	55	5,732	29	1,214	18	6,946	47
	Dec 07	2,300	2,456	951	59	5,766	34	1,180	-34	6,946	0
	Jan 08	2,301	2,477	956	65	5,799	33	1,162	-18	6,961	15
	Feb 08	2,304	2,479	952	64	5,799	0	1,136	-26	6,935	-26
	March 08	2,296	2,481	944	62	5,783	-16	1,112	-24	6,895	-40
	April 08	2,308	2,491	933	60	5,792	9	1,087	-25	6,879	-16
	May 08	2,308	2,497	925	62	5,792	0	1,048	-39	6,840	-39
June 08	2,311	2,505	918	61	5,795	3	1,009	-39	6,804	-36	
July 08	2,321	2,506	915	62	5,804	9	994	-15	6,798	-6	
Aug 08	2,321	2,502	912	62	5,797	-7	961	-33	6,758	-40	
FY-2009	Sept08	2,328	2,508	903	61	5,800	3	905	-56	6,705	-53
	Oct 08	2,344	2,519	897	62	5,822	22	903	-2	6,725	20
	Nov 08	2,338	2,525	888	61	5,812	-10	843	-60	6,655	-70
	Dec 08	2,342	2,535	887	62	5,826	14	845	2	6,671	16
	Jan 09	2,336	2,534	874	63	5,807	-19	840	-5	6,647	-24
	Feb 09	2,335	2,532	862	60	5,789	-18	816	-24	6,605	-42
	Mar 09	2,338	2,531	855	57	5,781	-8	786	-30	6,567	-38
	Apr 09	2,345	2,521	840	55	5,761	-20	729	-57	6,490	-77
	May 09	2,346	2,504	826	51	5,727	-34	693	-36	6,420	-70
	Jun 09	2,343	2,497	815	50	5,705	-22	679	-14	6,384	-36
Jul 09	2,337	2,488	795	47	5,667	-38	661	-18	6,328	-56	
Aug 09	2,341	2,486	787	47	5,661	-6	644	-17	6,305	-23	
FY-2010	Sept09	2,345	2,496	779	44	5,664	3	635	-9	6,299	-6
	Oct 09	2,347	2,499	773	44	5,663	-1	628	-7	6,291	-8
	Nov 09	2,352	2,505	758	44	5,659	-4	614	-14	6,273	-18
	Dec 09	2,354	2,508	750	41	5,653	-6	609	-5	6,262	-11
	Jan 10	2,352	2,507	747	34	5,640	-13	608	-1	6,248	-14
	Feb 10	2,351	2,508	733	28	5,620	-20	613	5	6,233	-15
	Mar 10	2,353	2,503	722	28	5,606	-14	623	10	6,229	-4
	Apr 10	2,358	2,500	712	28	5,598	-8	599	-24	6,197	-32
	May 10	2,361	2,498	707	27	5,593	-5	592	-7	6,185	-12
	Jun 10	2,360	2,500	694	28	5,582	-11	576	-16	6,158	-27
Jul 10	2,355	2,490	683	28	5,556	-26	564	-12	6,120	-38	
Aug10	2,358	2,488	671	27	5,544	-12	547	-17	6,091	-29	
FY-2011	Sept10	2,366	2,486	651	23	5,526	-18	614	67	6,140	49
	Oct-Dec10*										
	Jan 11**	2,361	2,470	626	21	5,478	-48	520	-94	5,998	-142
	Feb 11	2,370	2,472	628	21	5,491	13	534	14	6,025	27
	Mar 11	2,381	2,482	630	22	5,515	24	553	19	6,068	43
	Apr11	2,379	2,486	629	22	5,516	1	561	8	6,077	9
	May11	2,368	2,456	596	22	5,442	-74	518	-43	5,960	-117
	Jun 11	2,374	2,458	598	22	5,452	10	528	10	5,980	20
	Jul 11	2,379	2,463	604	22	5,468	16	538	10	6,006	26
Aug 11	2,396	2,476	605	23	5,500	32	549	11	6,049	43	
FY-2012	Sept11	2,403	2,480	606	23	5,512	12	567	18	6,079	30
	Oct 11	2,408	2,486	606	23	5,523	11	574	7	6,097	18
	Nov11	2,417	2,484	614	23	5,538	15	584	10	6,122	25
	Dec 11	2,369	2,414	543	13	5,339	-199	500	-84	5,839	-283
	Jan 12	2,376	2,412	542	14	5,344	5	520	20	5,864	25
	Feb 12	2,358	2,387	527	13	5,285	-59	498	-22	5,783	-81
	Mar 12	2,364	2,382	522	13	5,281	-4	498	0	5,779	-4
	Apr12	2,371	2,381	518	13	5,283	2	496	-2	5,779	0
	May12	2,369	2,380	517	13	5,279	-4	498	2	5,777	-2
	Jun 12	2,375	2,381	513	11	5,280	1	502	4	5,782	5
	Jul 12	2,365	2,376	513	10	5,264	-15	512	14	5,776	-1
	Aug 12	2,371	2,385	515	10	5,281	17	515	3	5,796	20
	FY-2013	Sept12	2,382	2,388	512	9	5,291	10	534	19	5,825
Oct 12		2,385	2,389	509	8	5,291	0	531	-3	5,822	-3
Nov12		2,386	2,387	509	7	5,289	-2	534	3	5,823	1
Dec 12		2,390	2,381	501	6	5,278	-11	550	16	5,828	5
Jan 13		2,377	2,380	502	6	5,265	-13	576	26	5,841	13
Feb 13		2,379	2,377	499	4	5,259	-6	591	15	5,850	9
Mar 13	2,382	2,374	490	3	5,249	-10	607	16	5,856	6	

* Totals for October thru December 2010 are not available due to system conversion.

**Corrected totals: Previous totals on January 2011 report included licenses that should have been expired. Expired program had not been reported.

Trainee Change = Change in number of appraiser trainees since preceding month

3/31/2013

TOTAL = Grand total of all active licenses, certifications and trainees

APPRAISAL MANAGEMENT COMPANY REGISTRATIONS

	Month	Paper Apps. Received	Online Apps. Received	Total Apps. Received	Total AMC Registrations Issued
FY-2012	Mar-12	18	4	22	0
	Apr-12	16	5	21	0
	May-12	25	16	41	44
	Jun-12	53	14	67	65
	Jul-12	13	6	19	53
	Aug. 12	5	1	6	7
	FY- 2013	Sep-12	0	1	1
Oct-12		0	3	3	5
Nov-12		2	1	3	2
Dec-12		1	2	3	4
Jan-13		0	0	0	2
Feb-13		1	0	1	0
Mar-13		0	0	0	0
TOTALS			134	53	187
Registrations Surrendered in February					-3
Registrations Revoked in March					-1
TOTAL AMC REGISTRATIONS					181

3/31/2013

Education & Licensing Services Division - TALCB

Fiscal Year Comparison

Fiscal Year - 2013

MARCH

	This YTD 9/12 - 03/13	Last YTD 9/11 - 03/12	Change Count	Percent
<i>Original Applications Received</i>				
Certified General Applications	45	62	-17	-27.42%
Certified Residential Applications	56	52	4	7.69%
State Licensed Applications	23	27	-4	-14.81%
Appraiser Trainee Applications	124	88	36	40.91%
Non-Residential Temporary Applications	198	180	18	10.00%
<i>Total Original Applications</i>	446	409	37	9.05%
<i>Licenses Issued from Original Applications</i>				
Certified General Licenses	56	65	-9	-13.85%
Certified Residential Licenses	70	70	0	0.00%
State Licensed	31	36	-5	-13.89%
Appraiser Trainee Licenses	123	98	25	25.51%
Non-Residential Temporary Licenses	196	180	16	8.89%
<i>Total Licenses from Original Applications</i>	476	449	27	6.01%
<i>Licenses Issued from Renewal Applications</i>				
Certified General Renewals	724	665	59	8.87%
Certified Residential Renewals	627	763	-136	-17.82%
State Licensed Renewals	176	182	-6	-3.30%
Appraiser Trainee Renewals	192	245	-53	-21.63%
Total Renewal Licenses Issued	1,719	1855	-136	-7.33%
<i>Licenses Issued from Reinstatement Applications</i>				
Certified General Reinstatements	8	6	2	33.33%
Certified Residential Reinstatements	4	4	0	0.00%
State Licensed Reinstatements	4	1	3	300.00%
Appraiser Trainee Reinstatements	29	17	12	70.59%
Total Reinstatement Licenses Issued	45	28	17	60.71%

Examination Activity - Fiscal Year 2012-2013

MONTHLY RESULTS: MARCH 2013

Overall Pass Rate Overall Failure Rate

	<u>State Licensed</u>	<u>Certified Residential</u>	<u>Certified General</u>		
Examinations Passed	0	1	2	3	
Examinations Failed	1	0	1		2
Examinations Taken	1	1	3	5	5
Examination Pass Rate (%)	0.00%	100.00%	66.67%	60.00%	40.00%

All examination types	
Total first time candidates:	5
Total repeat candidates:	4
Total pass:	6
Total fail:	3
Total examinations taken:	9

Examination Activity - Fiscal Year 2012-2013

YEAR-TO-DATE RESULTS: SEPTEMBER 2012 thru MARCH 2013

Overall Pass Rate Overall Failure Rate

	<u>State Licensed</u>	<u>Certified Residential</u>	<u>Certified General</u>		
Examinations Passed	15	21	18	54	
Examinations Failed	11	7	7		25
Examinations Taken	26	28	25	79	79
Examination Pass Rate (%)	57.69%	75.00%	72.00%	68.35%	31.65%

All examination types	
Total first time candidates:	60
Total repeat candidates:	19
Total pass:	54
Total fail:	25
Total examinations taken:	79

EXAMINATION ACTIVITY

FISCAL YEAR-TO-DATE COMPARISON MARCH

	<u>Sept. 2012 – Mar. 2013</u> <u>Pass Rate</u>	<u>Sept. 2011 – Mar. 2012</u> <u>Pass Rate</u>	<u>Difference</u>
Certified General Appraiser	72.00%	65.22%	+6.78
Certified Residential Appraiser	75.00%	67.86%	+7.14
Licensed Appraiser	57.69%	66.67%	-8.98
Overall Appraiser Pass Rate	68.35%	66.96%	+1.39

Information Technology Services Division

Electronic Information Outlet Statistics

As of March 2013

World Wide Web	Latest Fiscal 3 Mo	Prior Yr Fiscal 3 Mo	Total Fiscal YTD	Total Prior Fiscal YTD
Total Pages Viewed	338,514	315,706	842,670	605,953
Total Monthly Unique Visitors	21,777	17,582	50,467	37,210

Online Transactions	Total Latest 3 Mo	Online Latest 3 Mo	Online Percent	Fiscal YTD Online Percent	Prior Fiscal YTD Online Percent
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Applications	2	2	100.0%	69.2%	0.0%
AMC	2	2	100.0%	69.2%	0.0%

Renewals	592	531	89.7%	89.9%	87.7%
Certified General Appraiser	337	291	86.4%	87.7%	85.1%
Certified Residential Appraiser	255	240	94.1%	94.0%	89.9%

AMC Panel:	Last 3 Months	FY YTD
Invitations	2295	5451
Removals	30	163

Staff & Support Services Division

TALCB Budget Status Report

March 2013

5/12 = 41.7%

Expenditure Category	Budget FY2013	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	\$913,500	\$488,793	\$424,707	46.5%	
Employee Benefits	258,900	139,065	119,835	46.3%	
Other Personnel Costs	35,500	15,595	19,905	56.1%	
Professional Fees & Services	135,000	34,088	100,912	74.7%	Over budgeted for Versa programing
Consumables	8,400	3,030	5,370	63.9%	Office supplies
Utilities	720	50	670	93.1%	Shredding
Travel	27,000	10,252	16,748	62.0%	Board and employee travel not yet exp'd
Office Rent	97,800	97,703	97	0.1%	Lease paid in full
Equipment Rental	8,800	4,638	4,162	47.3%	
Registration & Membership	10,850	1,824	9,026	83.2%	Attorney CLE; conferences not yet exp'd
Maintenance & Repairs	13,800	3,273	10,528	76.3%	Versa Maintenance
Reproduction & Printing	1,500	31	1,469	97.9%	Envelopes, business cards, misc printing
Contract Services	33,400	16,238	17,162	51.4%	
Postage	6,000	3,124	2,876	47.9%	
Supplies & Equipment	11,600	1,481	10,119	87.2%	PC Refresh; subscriptions & publications
Communication Services	7,900	2,896	5,004	63.3%	TEX-AN services
Other Operating Expenses	3,600	974	2,626	72.9%	Misc.
Subtotal - Operations Expenditures	1,574,270	823,055	751,215	47.7%	
DPS Criminal History Background Checks	3,000	1,036	1,964	65.5%	
Statewide Cost Allocation Plan (SWCAP)	10,560	8,982	1,578	14.9%	No additional payments due to SWCAP
Contribution to General Revenue	30,000	17,500	12,500	41.7%	Not due until 8/31/13
Subtotal - Nonoperational Expenditures	43,560	27,518	16,042	36.8%	
Total Expenditures	\$1,617,830	\$850,573	\$767,257	47.4%	

Revenue	FY2013 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	\$1,257,548	\$687,000	\$570,548	45.4%	
AMCs	255,000	93,390	\$161,610	63.4%	Fewer new AMCs than expected
Other Miscellaneous Revenue	9,100	6,811	\$2,289	25.2%	Bulletin Fees/PSI Admin Fees/NSF fees
Total FY13 Revenue	\$1,521,648	\$787,201	\$734,447	48.3%	

	FY12 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	
AMC Revenue Carry Forward from FY12	\$377,000	\$219,917	\$157,083	41.7%	Pro-rated thru March
Revenue Over/(Under) Expenditures & Transfers	\$280,818	\$156,544			Includes AMC Carry Forward

TALCB Standards & Enforcement Services

CASE STATUS REPORT FY 2013 as of APRIL 30, 2013

of Cases Received

Case Classification	FY2012	12-Sep	12-Oct	12-Nov	12-Dec	13-Jan	13-Feb	13-Mar	13-Apr	13-May	13-Jun	13-Jul	13-Aug	FYTD
Experience Audits	88	14	10	10	6	7	9	6	5					67
RFAs & Covert Complaints	8	0	0	0	0	0	0	0	0					0
Regulatory Complaints:														
AMCs	0	3	7	4	1	1	0	0	0					16
Dodd Frank	16	2	3	1	0	0	1	0	5					12
Ethics	7	3	2	1	0	0	1	1	0					8
Staff	8	0	0	0	1	1	0	0	0					2
USPAP	172	9	14	10	6	11	18	10	19					97
Other	8	1	4	0	2	0	1	0	2					10
No Jurisdiction	5	0	1	1	0	0	0	0	0					2
MCD Inquiries	7	2	0	0	0	1	0	0	0					3
Opened During Month	319	34	41	27	16	21	30	17	31					217

Total Cases Open at Beginning of Month **240**

of Cases Closed

Case Disposition	FY2012	12-Sep	12-Oct	12-Nov	12-Dec	13-Jan	13-Feb	13-Mar	13-Apr	13-May	13-Jun	13-Jul	13-Aug	FYTD
Experience Audits	81	7	13	10	11	4	7	7	6					65
RFAs	38	4	1	12	1	0	1	1	0					20
Regulatory Complaints:														
Surrendered	47	0	0	5	0	0	2	0	0					7
Agreed Final Order	85	0	0	11	0	0	13	0	0					24
Other Disciplinary Action	16	0	0	0	0	0	4	0	2					6
Insufficient Evidence	1	0	0	0	0	0	0	0	0					0
Dismissed	216	12	37	32	24	19	19	12	42					197
No Jurisdiction	2	1	0	2	0	3	0	0	0					6
MCD Inquiries	9	0	2	0	0	0	0	0	0					2
Closed During Month	495	24	53	72	36	26	46	20	50					327

Total Cases Open at End of Month **221**

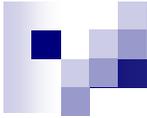
III. CASES AT LEAST 1 YR OLD:

	As of 4/30/12	As of 7/31/12	As of 10/22/12	As of 1 1/28/13	As of 4/30/13	Percentage Change from Reporting Period
Agreed Orders/PFD Received	68	7	10	7	16	(129%)
Awaiting Receipt of PFD	1	1	3	4	0	(100%)
Set for Hearing	15	12	12	6	7	17%
Hearing Required/Being Processed for SOAH	13	7	19	15	10	(33%)
In Negotiations	17	9	4	7	10	43%
RFA/Covert Reviews	72	44	42	21	20	(5%)
Regulatory Reviews in Investigation	85	81	57	43	16	(63%)
Sent to Peer Review Committee	3	7	1	7	3	(57%)
Total Cases	274	168	148	110	82	(25%)

30 April 2013

VI. TOTAL CASES OPEN AS OF 4/30/2013:

Fiscal Year	No. Pending (as of 7/31/12)		No. Pending (as of 10/22/12)		No. Pending (as of 1/28/13)		No. Pending (as of 4/30/13)		Percentage Change from Previous Reporting Period
2005	1		1		0		0		-----
2006	0		0		0		0		-----
2007	4		3		2		1		(50%)
2008	10	3 Reg	9	3 Reg	6	2 Reg	5	1 Reg	(16.7%)
		7 RFA		6 RFA		4 RFA		4 RFA	
2009	21	13 Reg	19	13 Reg	16	12 Reg	12	8 Reg	(25%)
		8 RFA		6 RFA		4 RFA		4 RFA	
2010	55	38 Reg	42	28 Reg	28	22 Reg	21	15 Reg	(25%)
		17 RFA		14 RFA		6 RFA		6 RFA	
2011	83	73 Reg	62	55 Reg	34	29 Reg	19	14 Reg	(44.1%)
		10 RFA		7 RFA		5 RFA		5 RFA	
2012	136	132 Reg	134	130 Reg	82	80 Reg	45	44 Reg	(45.1%)
		4 RFA		4 RFA		2 RFA		1 RFA	
2013	-----		29	29 Reg	72	72 Reg	92	92 Reg	27.8%
				0 RFA		0 RFA		0 RFA	
Total	310		299		240		195		(18.75%)



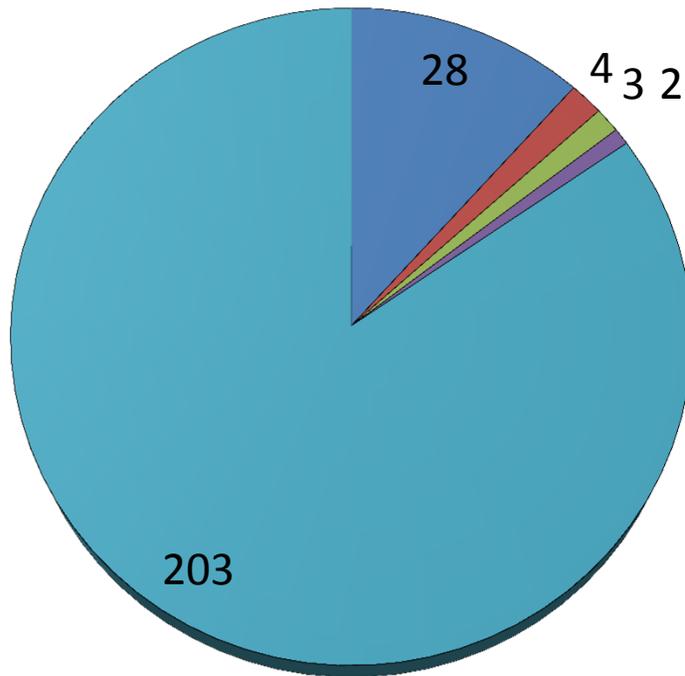
X. AVERAGE TIME FOR REGULATORY COMPLAINT RESOLUTION:

	FY2010	FY2011	FY2012	FY2013 1 ST QTR	FY2013 2 ND QTR	FY2013 3 RD QTR	FY2013 4 TH QTR	YTD2013
Average Number of Days for Case Resolution	409.52	417.16	561.8	517.6	378.8			

CASE RESOLUTIONS FY 2013

September 1, 2012 – April 30, 2013

222 Total Complaints Resolved

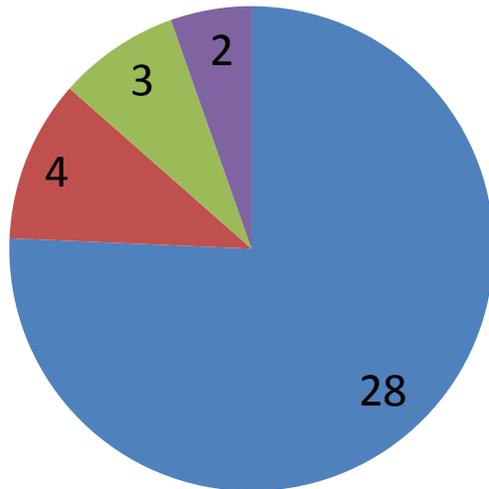


- 28 (11.5%) Agreed Orders Without Auto. Revoc. Clauses
- 4 (2%) Litigated
- 3 (1%) Agreed Orders with Auto. Revoc. Clauses
- 2 (1%) NOAV / Revocation
- 203 (84.5%) Dismissals
 - 119 (59%) Dismissals
 - 72 (35%) Dismissals with Warning Letter
 - 6 (3%) Contingent Dismissals
 - 6 (3%) Non-Jurisdictional Dismissals

DISCIPLINARY ACTIONS FY 2013

September 2012 – April 2013

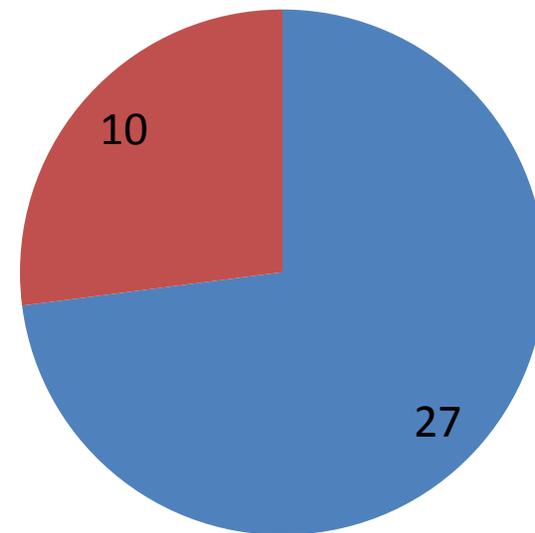
37 Disciplinary Actions



- 28 (76%) Agreed Orders w/o Auto-Revocation Clause & Surrenders
- 4 (11%) Litigated / SOAH Proposal for Decision
- 3 (8%) Agreed Orders with Auto-Revocation Clause
- 2 (5%) NOAV / Revocation

Disciplinary Recidivism

- 27 (73%) Distinct Respondents
- 10 (27%) Repeat Offenders

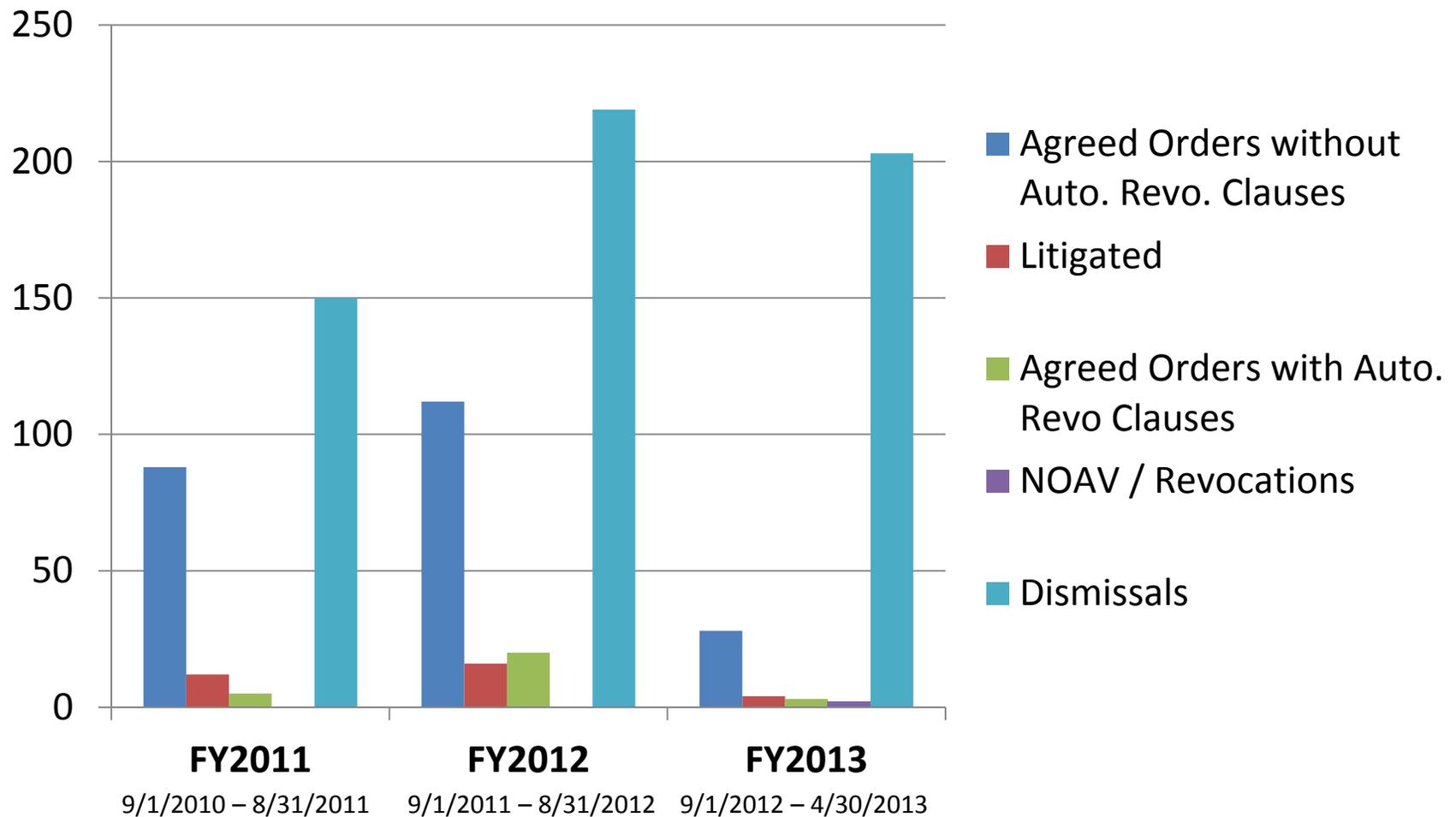


Average Number of Licensees
(September 2012 to April 2013)

6920

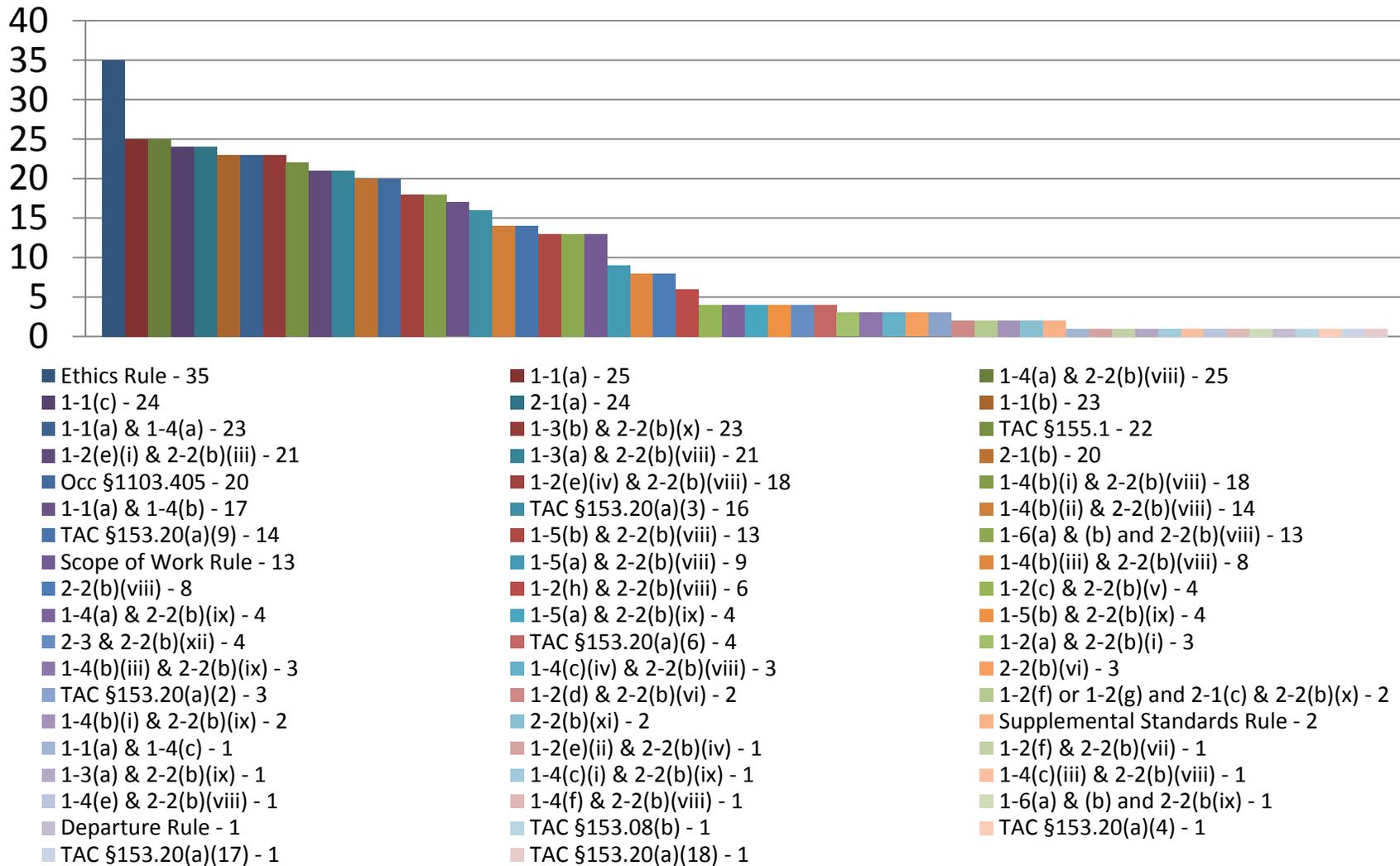
.1 % Recidivism Rate

Resolution Trends FY2011 – FY2013



RESPONDENT VIOLATIONS

(Cases Closed 9/1/2012 to 2/28/2013)





AGENDA ITEM 15

Discussion and possible action to adopt amendments to 22 TAC §153.24 concerning Complaint Processing.

SUMMARY

The amendments were proposed at the February 15, 2013, meeting of the Board and published in the March 8, 2013, issue of the *Texas Register* (38 *TexReg* 1624), to clarify that receipt of a complaint intake form by TALCB does not constitute the filing of a formal complaint against the individual named on the complaint intake form, to clarify all of the information that a respondent must provide to TALCB following notification of receipt of a complaint intake form, to establish a timeframe for completion of a preliminary review to determine if a violation occurred, to set out the criteria and procedure for filing of a formal complaint by TALCB, to more clearly set out levels of discipline and the mitigating and aggravating factors to be considered when assessing sanctions and to more clearly define penalty parameters at each level.

COMMENTS

No comments were received on the amendments to the rule as proposed.

STAFF RECOMMENDATION

Adopt rule as published with the addition of the phrases “there is no jurisdiction” and “the complaint warrants dismissal, including contingent dismissal, under subsection (j)” to subsection (g) in order to clarify the complete list of when a complaint can be dismissed without further processing. These recommended changes are highlighted in your materials.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.24, concerning Complaint Processing, without changes to text as previously published to the *Texas Register*, except for the changes presented by staff at this meeting and any technical or non-substantive changes required for adoption.



THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §153.24

§153.24. Complaint Processing.

(a) Receipt of a Complaint Intake Form by the board does not constitute the filing of a formal complaint by the board against the individual named on the Complaint Intake Form. [A complaint must be in writing and must be signed by the complainant. Board staff may initiate a complaint.]

(+) Upon receipt of a signed Complaint Intake Form [complaint], staff shall:

(1) [(A)] assign the complaint a case number in the complaint tracking system; and

(2) [(B)] send written acknowledgement of receipt to the complainant.

(b) [(2)] If the staff determines at any time that the complaint is not within the Board's jurisdiction or that no violation exists, the complaint shall [then] be dismissed with no further processing. The Board or the commissioner may delegate to [Board] staff the duty to dismiss complaints.

(c) [(3)] A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) [(A)] may be investigated covertly; and

(2) [(B)] shall be referred to the appropriate prosecutorial authorities.

(d) [(4)] Staff may request additional information necessary to determine how to proceed with the complaint from any person.

(e) [(5)] As part of a preliminary review, a [A] copy of the Complaint Intake Form [complaint] and all supporting documentation shall be sent to the respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) [(6)] The respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form [complaint] . The 20-day

period may be extended for good cause upon request in writing or by e-mail.

[(A)] The response shall include the following:

(1) a copy of the appraisal report that is the subject of the complaint;

(2) [(+)] a copy of the respondent's work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. (SIGNATURE OF RESPONDENT);

(3) [(+)] a narrative response to the complaint, addressing each and every item in the complaint [element thereof];

(4) [(+)] a list of any and all persons known to the respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the respondent's possession, contact information; [and]

~~[(iv) the following statement in the letter transmitting the response: EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE.]~~

TITLE 22. Examining Boards

Part VIII. Texas Appraiser Licensing and Certification Board

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(5) [(B)] any [Any—supporting] documentation that supports respondent's position that was not in the work file, as long as it is [must be] conspicuously labeled as non-work file documentation [-such] and kept separate from the work file.

[(C)] The respondent may also address other matters not raised in the complaint that the respondent believes need explanation; and [likely to be raised and may be supported by documentation contained in the work file.]

(6) a signed, dated and completed copy of any questionnaire sent by board staff.

(g) Staff will evaluate the complaint within three months of receipt of the response from respondent to determine whether sufficient evidence of a potential violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, or there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (j), the complaint shall be dismissed with no further processing.

(h) [(7)] If the [The] complaint is not dismissed under subsection (g) of this section, a formal complaint will [shall] be opened and it will be [assigned to a staff investigator and shall be] investigated by a [the] staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint has been opened will be sent to the complainant and respondent.

(i) [(8)] The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the Board for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(j) [(9)] In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Tex. Occ. Code §1103.552, staff, the administrative law judge in a contested case hearing and the Board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding [penalty matrix]: [Figure: 22 TAC §153.24(9)]

(1) For the purposes of these sanctions guidelines:

(A) a person will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning letter, contingent dismissal or discipline occurred more than seven (7) years ago;

(B) a prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the Board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action;

(C) prior discipline is defined as any sanction (including administrative penalty) received under a Board final or agreed order;

(D) a violation refers to a violation of any provision of the Act, Board Rules or USPAP;

(E) "minor deficiencies" is defined as violations of the Act, Board Rules or USPAP which do not impact the credibility of the appraisal assignment results, the assignment results themselves and do not impact the appraiser's honesty, trustworthiness or integrity to the Board, the appraiser's clients or intended users of the appraisal service provided;

(F) "serious deficiencies" is defined as violations of the Act, Board Rules or USPAP which do impact the credibility of the appraisal assignment results, the assignment results themselves or do impact the appraiser's honesty, trustworthiness or integrity to the Board, the appraiser's clients or intended users of the appraisal service provided;

TITLE 22. Examining Boards

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(G) "remedial measures" include, but are not limited to, training, mentorship, education, or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If respondent completes all remedial measures required in the agreement within a certain prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal, and if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the discipline, including:

(i) Whether it concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions imposed;

(iii) The length of time since the previous discipline;

(D) The difficulty or complexity of the appraisal assignment(s) at issue;

(E) Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F) Whether the violations found involved a single appraisal/instance of conduct or multiple appraisals/instances of conduct;

(G) To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at:

(i) A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii) The Board;

(iii) A matter which is actively being litigated in a state or federal court or before a

regulatory body of a state or the federal government;

(iv) Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac;

(v) A consumer contemplating a real property transaction involving the consumer's principal residence;

(H) Whether Respondent's violations caused any harm, including financial harm, and the amount of such harm;

(I) Whether Respondent acknowledged or admitted to violations and cooperated with the Board's investigation prior to any contested case hearing;

(J) The level of experience Respondent had in the appraisal profession at the time of the violations, including:

(i) The level of appraisal credential Respondent held;

(ii) The length of time Respondent had been an appraiser;

(iii) The nature and extent of any education Respondent had received related to the areas in which violations were found; and

(iv) Any other real estate or appraisal related background or experience Respondent had;

(K) Whether Respondent can improve appraisal skills and reports through the use of remedial measures;

(3) The sanctions guidelines contained herein shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint:

(A) 1st Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

TITLE 22. Examining Boards

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(iii) Contingent dismissal with remedial measures.

(B) 1st Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

(i) Contingent dismissal with remedial measures;

(ii) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the appraiser's practice;

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$250.00 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, not to exceed \$3,000.00 in the aggregate.

(C) 1st Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(D) 2nd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures;

(iv) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the appraiser's practice;

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to \$250.00 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$1,000 statutory limit per complaint matter.

(E) 2nd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in

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a final order which imposes one or more of the following:

(i) A period of suspension;
(ii) A revocation;
(iii) Remedial measures;
(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(F) 2nd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;
(ii) A revocation;
(iii) Remedial measures;
(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(G) 3rd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;
(ii) A revocation;
(iii) Remedial measures;
(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) \$1,000 to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(H) 3rd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;
(ii) A revocation;
(iii) Remedial measures;
(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the appraiser's practice;

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(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the appraiser is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A revocation; and

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(J) 4th Time Discipline--violations of the Act, Board Rules or USPAP will result in a final order which imposes the following:

(i) A revocation; and

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(K) Unlicensed appraisal activity will result in a final order which imposes a \$1,500 in administrative penalties per unlicensed appraisal activity, up to the maximum \$5,000 statutory limit per complaint matter.

(4) In addition, staff may recommend any or all of the following:

(A) reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) probating all or a portion of any sanction or administrative penalty for a period not to exceed five years;

(C) requiring additional reporting requirements; and

(D) such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.

~~[(A) For the purposes of the above matrix, a person will not be considered to have had a prior occurrence unless the board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action.]~~

~~[(B) In addition to the guidelines outlined in the matrix, staff may recommend any or all of the following:]~~

~~[(i) reducing or increasing the recommended penalty based on documented factors that support the deviation, including but not limited to the number or seriousness of the violation(s) and degree of harm to the public;]~~

~~[(ii) probating all or a portion of a sanction or administrative penalty for a period not to exceed five years;]~~

~~[(iii) requiring additional reporting requirements; and]~~

~~[(iv) such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.]~~

(k) [(10)] Agreed resolutions of complaint matters pursuant to Tex. Occ. Code §1103.458 or §1103.459 must be signed by the respondent, a representative of the Standards and Enforcement Services Division, and the commissioner.



AGENDA ITEM 16

Discussion and possible action to adopt amendments to 22 TAC §153.21 concerning Appraiser Trainees and Sponsors.

SUMMARY

The amendments were proposed at the February 15, 2013, meeting of the Board and published in the March 8, 2013, issue of the *Texas Register* (38 *TexReg* 1624), to require disclosure by sponsors of any disciplinary action taken against them in the past three years and to bring the rules into compliance with the updated *Real Property Appraiser Qualification Criteria (Criteria)* set out by The Appraiser Qualifications Board of the Appraisal Foundation. The *Criteria* states that Supervisory Appraisers shall be in "good standing" for a period of at least three years.

COMMENTS

No comments were received on the amendments to the rule as proposed.

STAFF RECOMMENDATION

Adopt rule as published.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.21, concerning Appraiser Trainees and Sponsors, without changes to text as previously published to the *Texas Register*, except for any technical or non-substantive changes required for adoption.



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22 TAC §153.21

§153.21.Appraiser Trainees and Sponsors.

(a) - (j) (No change.)

(k) Certified appraisers who sponsor appraiser trainees or serve as an authorized supervisor must be in good standing and not subject to any disciplinary action within the last **three** [~~two~~] years that **affected** [~~affects~~] the **sponsor's or** supervisor's legal eligibility to engage in appraisal practice. **Disciplinary action taken against the sponsor or supervisor within the last three years that did not affect the sponsor's or supervisor's legal eligibility to engage in appraisal practice must be disclosed to the trainee prior to sponsorship.**



AGENDA ITEM 17

Discussion and possible action to propose amendments to 22 TAC §153.20 concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure.

SUMMARY

The amendments are proposed to clarify that an applicant for a license or certification, whether successful or not, is subject to denial and/or discipline (in the case of a step- up application) if the applicant makes false, misleading or fraudulent misrepresentations in the application process. The proposed amendments were reviewed and recommended by the Board's Enforcement Committee.

STAFF RECOMMENDATION

Propose the amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §153.20 concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure as presented for publication and public comment to the *Texas Register*, along with any additional technical or non-substantive changes as required for proposal.



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Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §153.20. concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure. The amendments are proposed to clarify that an applicant for a license or certification, whether successful or not, is subject to denial and/or discipline (in the case of a step- up application) if the applicant makes false, misleading or fraudulent misrepresentations in the application process.

Kerri Lewis, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro- businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Lewis also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be greater clarity.

Comments on the proposal may be submitted to Kerri Lewis, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes TALCB to adopt rules relating to certificates and licenses and §1103.154, which authorizes TALCB to adopt rules relating to the professional conduct of a licensed or certified appraiser.

The statute affected by this amendment is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure

(a) The board may suspend or revoke a license, certification, authorization or registration issued under provisions of this Act or deny issuing a license, certification, authorization or registration to an applicant at any time when it has been determined that the person applying for or holding the license, certification, authorization, or registration:

(1)-(13) No change

(14) procures, or attempts to procure, a license, certification, authorization, approval, or registration pursuant to the Act by making false, misleading, or fraudulent representation;

(15)-(25) No change

(b)-(m) No change

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Filed with the Office of the Secretary of State on
May 17, 2013.

Kerri Lewis
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 18(a-g)

Discussion and possible action to propose new 22 TAC Chapter 157, Subchapter E, Alternative Dispute Resolution as follows:

- a. §157.30, Alternative Dispute Resolution
- b. §157.31, Informal Conference
- c. §157.32, Negotiated Settlement
- d. §157.33, Mediation
- e. §157.36, Stipulations
- f. §157.37, Agreements
- g. §157.38, Confidentiality

SUMMARY

The new rules in new Subchapter E are proposed to clearly set out TALCB's policy and procedures for alternative dispute resolution. The rules in new Subchapter E were reviewed and recommended by the Board's Enforcement Committee.

STAFF RECOMMENDATION

Propose the new Subchapter E as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit the new rules in 22 TAC Chapter 157, Subchapter E, Alternative Dispute Resolution, as presented, for publication and public comment to the *Texas Register*, along with any additional technical or non-substantive changes as required for proposal.



**PROPOSED RULE ACTION FROM
MAY 17, 2013 MEETING OF
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
Chapter 157 Rules Relating to Practice and Procedure**

22 TAC Chapter 157, Subchapter E concerning Alternative Dispute Resolution

The Texas Appraiser Licensing and Certification Board (TALCB) proposes a new Subchapter E to 22 TAC Chapter 157, Alternative Dispute Resolution as follows: §157.30, Alternative Dispute Resolution; §157.31, Informal Conference; §157.32, Negotiated Settlement §157.33, Mediation; §157.36, Stipulations; §157.37, Agreements; §157.38, Confidentiality. The new rules are proposed to clearly set out TALCB's policy and procedures for alternative dispute resolution.

Kerri Lewis, General Counsel, has determined that for the first five-year period the proposed new rules are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Lewis also has determined that for each year of the first five years the new rules as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be greater clarity and transparency about the alternative dispute resolution methods available to respondents who have had a complaint filed against them.

Comments on the proposal may be submitted to Kerri Lewis, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to

general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The new rules are proposed under Texas Occupations Code, §§1103.151 and 1104.051, which authorize the Texas Appraiser Licensing and Certification Board to adopt rules necessary for certifying or licensing an appraiser and administering the provisions of Chapter 1104 regarding appraisal management companies and §1103.512 regarding Record of Proceedings.

The statutes affected by these new rules are Texas Occupations Code, Chapters 1103 and 1104. No other statute, code or article is affected by the proposed new rules.

SUBCHAPTER E
ALTERNATIVE DISPUTE RESOLUTION

§ 157.30. Alternative Dispute Resolution. (a) It is the Board's policy to encourage the fair and expeditious resolution of all formal complaint matters through voluntary settlement procedures. The Board's Alternative Dispute Resolution (ADR) procedures are set out in this subchapter, however, the Board encourages the resolution of disputes at any time, whether under this subchapter or not.

(b) ADR procedures may be requested by the Board, a respondent or an applicant any time after the Board initiates a formal complaint against a respondent or denies an application.

(c) This subchapter may apply to a contested case upon unanimous motion of the parties and

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at the discretion of the administrative law judge. In such cases, it is within the discretion of the judge to grant a continuance of the hearing to allow the use of ADR procedures.

§157.31. Informal Conference. (a) A respondent may meet with the Board for an informal discussion of the facts and circumstances of the alleged violations.

(b) A respondent may, but is not required to, have an attorney present at an informal conference.

(c) A respondent will be provided with the investigative report and a Statement of Informal Conference Procedures and Rights (IC Form) not later than three (3) days prior to the date of the informal conference. The respondent and respondent's attorney, if any, must acknowledge receipt of the IC Form by signing it and delivering it to the Board at the beginning of the informal conference.

(d) Participation in an informal conference is not mandatory and may be terminated at any time by either party.

(e) At the conclusion of the informal conference, the Board may propose a settlement offer that can include administrative penalties and any other disciplinary action authorized by the Act or recommend that the complaint be dismissed.

(f) The respondent may accept, reject, or make a counter offer to the proposed settlement not later than ten (10) days following the date of the informal conference.

(g) If the parties cannot reach a settlement not later than ten (10) days following the date of the informal conference, the matter will be referred to the Director of Standards and Enforcement Services to pursue appropriate action.

§157.32. Negotiated Settlement. (a) The Board and the respondent or applicant may enter into a settlement agreement following negotiations at any time without first engaging in an informal conference.

(b) Negotiations may be conducted in person, by telephone, or through any form of written communication.

§157.33. Mediation. (a) If a resolution cannot be reached through an informal conference or negotiated settlement and with the consent of all parties, the Board may schedule an original mediation with SOAH prior to filing a petition on the formal complaint with SOAH. Mediation will be set for either a four (4) hour or eight (8) hour session, at the discretion of the Board, based on the nature and complexity of the formal complaint. The Board will not refuse any reasonable request for mediation, as determined by the Director of Standards and Enforcement Services. Neither a petition nor a reply is required to be filed with SOAH with an original mediation request.

(b) After the Board files a Request to Docket form for mediation, SOAH will advise the parties of the mediator and the date, time and place for the mediation.

(c) The parties at the mediation must have authority to settle, provided however, all agreements signed by Board staff at the mediation are subject to final approval by the Board at their next Board meeting.

(d) If the mediator is a SOAH judge, that person will not also sit as the judge for the case if mediation is not successful and the contested matter goes to hearing.

(e) A respondent or applicant participating in a mediation at SOAH will pay one-half (1/2) of SOAH's fee for the mediation directly to the Board prior to the commencement of the mediation. SOAH's fee for mediation will be based on the contract rate that SOAH bills the Board for a four (4) or eight (8) hour mediation session as applicable.

§157.36. Stipulations. When the ADR procedures do not result in the full settlement of a matter, the parties, in conjunction with the mediator if applicable, may limit the issues in a contested case through the entry of written stipulations. Such stipulations shall be forwarded or formally

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presented to the administrative law judge assigned to conduct the contested case hearing on the merits and shall be made part of the hearing record.

§157.37. Agreements. (a) All agreements between or among parties that are reached as a result of ADR must be committed to writing, signed by the respondent or applicant and a Board staff attorney and submitted to the Board for approval at their next Board meeting. Once signed by the Board, the agreement will have the same force and effect as a written contract.

(b) If the Board does not approve a proposed settlement, the respondent or applicant will be so informed and the matter will be referred to the Director of Standards and Enforcement to pursue appropriate action.

§157.38. Confidentiality. (a) Except as provided in subsections (c) and (d) of this section, a communication relating to the subject matter made by a participant in an ADR procedure, whether before or after the institution of formal ADR proceedings, is confidential, is not subject to disclosure, and may not be used as evidence in any further proceeding.

(b) Any notes or record made of an ADR procedure are confidential, and participants, including the mediator, may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute.

(c) An oral communication or written material used in or made a part of an ADR procedure is admissible or discoverable only if it is admissible or discoverable independent of the procedure.

(d) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to the judge to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order or whether

the communications or materials are subject to disclosure.

(e) All communications in a mediation between parties and between each party and the mediator are confidential. No shared information will be given to the other party unless the party sharing the information explicitly gives the mediator permission to do so. Material provided to the mediator will not be provided to other parties and will not be filed or become part of the contested case record. All notes taken during the mediation conference will be destroyed at the end of the process.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 17, 2013.

Kerri Lewis
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 19

Discussion and possible action to propose amendments to 22 TAC §159.159 concerning Disclosure of Registration Number.

SUMMARY

The amendments are proposed to help appraisers identify Appraisal Management Companies that are registered with TALCB by clarifying that an Appraisal Management Company is required to disclose the name under which it is registered with TALCB and any other name under which it does business in addition to the registration number currently required on documents used to procure appraisals. The proposed amendments were reviewed and recommended by the Board's AMC Advisory Committee.

STAFF RECOMMENDATION

Propose the amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.159 concerning Disclosure of Registration Number, as presented, for publication and public comment to the *Texas Register*, along with any additional technical or non-substantive changes as required for proposal.



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Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §159.159 concerning Disclosure of Registration Number

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §159.159, Disclosure of Registration Number. The amendments are proposed to help appraisers identify Appraisal Management Companies that are registered with TALCB by clarifying that an Appraisal Management Company is required to disclose the name under which it is registered with TALCB and any other name under which it does business in addition to the registration number currently required on documents used to procure appraisals.

Kerri Lewis, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro- businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Lewis also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to assist appraisers in identifying whether an Appraisal Management Company is registered with TALCB prior to accepting a work assignment from the Appraisal Management Company.

Comments on the proposal may be submitted to Kerri Lewis, General Counsel, Texas Appraiser

Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the Texas Register.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the Texas Appraiser Licensing and Certification Board to adopt rules necessary to establish and enforce standards related to appraisal management services.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendment.

§159.159. Disclosure of Registered Name and Registration Number

(a) For the purposes of the Act, "documents used to procure appraisals" include **all** written documents and electronic communications, including e-mail, used for that purpose, but does not include general advertisements **and supporting documentation.**

(b) On all documents used to procure appraisals, an AMC must disclose the name it registered with the Board, any other name that it uses in business and the registration number received from the Board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Filed with the Office of the Secretary of State on
May 17, 2013.

Kerri Lewis
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 20

Discussion and possible action to propose amendments to 22 TAC §159.109 concerning Inactive Status.

SUMMARY

The amendments are proposed to provide a procedure for a registered Appraisal Management Company to elect to be placed on inactive status. The amendments were reviewed and recommended by the Board's AMC Advisory Committee.

STAFF RECOMMENDATION

Propose the amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.109 concerning Inactive Status, as presented, for publication and public comment to the *Texas Register*, along with any additional technical or non-substantive changes as required for proposal.



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MAY 17, 2013 MEETING OF
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §159.109 concerning Inactive Status

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §159.109, Inactive Status. The amendments are proposed to provide a procedure for a registered Appraisal Management Company to elect to be placed on inactive status.

Kerri Lewis, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Lewis also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be to have a clear process in place when an Appraiser Management Company wants to become inactive.

Comments on the proposal may be submitted to Kerri Lewis, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the Texas Register.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the

Texas Appraiser Licensing and Certification Board to adopt rules necessary to establish and enforce standards related to appraisal management services.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendment.

§159.109. Inactive Status

(a) ~~A registrant on inactive status may not engage in any activity for which registration is required.~~ To elect to be placed on inactive status, a registrant must do the following:

(1) file a request for inactive status on a form approved by the Board and pay the required fee; and

(2) confirm in writing to the Board that the registrant has given written notice of its election to go inactive to all appraisers listed on the registrant's appraiser panel at least 30 days prior to filing the request for inactive status.

(b) In order to return from inactive status to active status, a registrant shall submit to the Board a completed Request for Active Status form and proof of compliance with all outstanding requirements for active registration.

(c) A registrant that has elected or been placed on inactive status may not engage in any activity for which registration is required until ~~the~~ an active registration has been issued by the Board.

(d) The appraiser panel of a registrant on inactive status will remain in place until the registrant's next renewal date.

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(d e) A registrant may not renew on inactive status. An inactive registrant must satisfy all renewal requirements for an active registration.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 17, 2013.

Kerri Lewis
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 21

Discussion and possible action to propose amendments to 22 TAC §159.155 concerning Periodic Review of Appraisals.

SUMMARY

The amendments are proposed to clarify that Appraisal Management Companies are only required to review appraisal services performed on 1-4 family unit properties collateralizing mortgage obligations as contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amendments to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

STAFF RECOMMENDATION

Propose the amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.155 concerning Periodic Review of Appraisals, as presented, for publication and public comment to the *Texas Register*, along with any additional technical or non-substantive changes as required for proposal.



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MAY 17, 2013 MEETING OF
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §159.155 concerning Periodic Review of Appraisals

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §159.155, Periodic Review of Appraisals. The amendments are proposed to clarify that Appraisal Management Companies are only required to review appraisal services performed on 1-4 family unit properties collateralizing mortgage obligations as contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amendments to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

Kerri Lewis, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated significant impact on small businesses, micro- businesses or local or state employment as a result of implementing the sections. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Lewis also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be clarity for AMC's in complying with the rule.

Comments on the proposal may be submitted to Kerri Lewis, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or to general.counsel@talcb.texas.gov. The deadline for

comments is 30 days after publication in the Texas Register.

The amendment is proposed under Texas Occupations Code, §1104.051, which authorizes the Texas Appraiser Licensing and Certification Board to adopt rules necessary to establish and enforce standards related to appraisal management services.

The statute affected by this amendment is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendment.

§159.155. Periodic Review of Appraisals

(a) A registrant shall review the work of appraisers performing appraisal services [on 1-4 family unit properties collateralizing mortgage obligations](#) by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of:

(1) one of the first five appraisals performed for the registrant by each appraiser, prior to making a sixth assignment; and

(2) a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.

(b) – (h) No change

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

TITLE 22. Examining Boards
Part VIII. Texas Appraiser Licensing and Certification Board
Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

Filed with the Office of the Secretary of State on
May 17, 2013.

Kerri Lewis
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 22(a-d)

Discussion and possible action on recommendations from the Executive Committee

- a. regarding approval of a policy on Board meeting decorum
- b. regarding responsibilities of the TALCB liaison to the Texas Real Estate Commission
- c. regarding use of the Commission's evaluation form for input on Commissioner's job performance
- d. regarding a system or procedure to track staff implementation of Board directives

SUMMARY

To be presented.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 23

Discussion and possible action on recommendations from the Budget/Finance Committee regarding the FY2014 TALCB draft budget.

SUMMARY

To be presented.



AGENDA ITEM 24

Discussion and possible action to issue policy guidelines regarding AMC's required periodic review of appraisals.

SUMMARY

This is a proposed policy to clarify the Board's interpretation that the reviews under 22 TAC 159.155 are only required for appraisal services on 1-4 family unit properties collateralizing mortgage obligations as contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amendments to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. This policy is necessary until such time as proposed amendments to 22 TAC 159.155 can be adopted since a majority of registered AMCs will reach the 12 months deadline to perform the required reviews over the next several months. It could create unnecessary expenditures by AMCs if the scope of the reviews is not clarified.

STAFF RECOMMENDATION

Adopt proposed policy

RECOMMENDED MOTION

MOVED, that the Board adopt the policy as presented.

**TALCB Board Members**

Walker Beard
Chair

Jamie S. Wickliffe
Vice Chair

Laurie C. Fontana
Secretary

Clayton Black

Luis F. De La Garza, Jr

Keith Kidd

Mark A. McAnally

Shannon K. McClendon

Sheryl R. Swift

Douglas E. Oldmixon
Commissioner

POLICY MEMORANDUM

Date: May 17, 2013

RE: Period Review of Appraisals by AMCs

This memorandum is intended to clarify the Texas Appraiser Licensing and Certification Board's interpretation of the scope of the reviews required under 22 TAC §159.155 is limited to appraisal services on 1-4 family unit properties collateralizing mortgage obligations as contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 amendments to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. This policy is necessary until such time as the proposed amendments to 22 TAC §159.155 can be adopted since a majority of registered AMCs will reach the 12 months deadline to perform the required reviews over the next several months. Without the policy in place, AMC's with divisions that perform other types of appraisal services could incur unnecessary expenditures.

This policy is effective as of May 17, 2013 and remains in effect until and unless changed or revoked by the Board.

Approved by the Board and signed this 17th day of May, 2013.

Walker R. Beard, Chairperson
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 25(a)

Discussion and possible action on recommendations from the Enforcement Committee regarding guidelines for compliance matters for Board Final Orders.

SUMMARY

The Enforcement Committee reviewed and recommends a policy that provides the Board will include a provision in all of its final orders that if a respondent fails to comply with any of the stated terms with a due date in a final order within the time allotted, the sanction shall be automatic suspension until the respondent is in full compliance with the order and an administrative penalty of \$1,000 shall be assessed. Staff has also included in the proposed policy for the Board's consideration, other related guidelines for Final Orders that the Board has already approved for its Agreed Orders.

STAFF RECOMMENDATION

Adopt proposed policy as presented.

RECOMMENDED MOTION

MOVED, that the Board adopt the policy on Final Order Guidelines as presented.

TALCB Board Members

Walker Beard
Chair

Jamie S. Wickliffe
Vice Chair

Laurie C. Fontana
Secretary

Clayton Black

Luis F. De La Garza, Jr

Keith Kidd

Mark A. McAnally

Shannon K. McClendon

Sheryl R. Swift

Douglas E. Oldmixon
Commissioner

POLICY MEMORANDUM

Date: May 17, 2013

RE: Final Order Guidelines

This memorandum is to confirm that the Texas Appraiser Licensing and Certification Board (Board) approved the implementation of the following guidelines for Final Orders regarding compliance with a Final Order of the Board:

- Experience logs will be due after completion of any ordered education;
- There will be clear and specific date deadlines set out for delivery of evidence of compliance with terms and conditions contained in the Order;
- In an Order where a respondent is not placed on probated suspension or probated revocation, if a respondent fails to comply with any of the terms with a stated due date in the Order within the time allotted, the Order shall contain a provision setting out a sanction of automatic suspension until respondent is in full compliance with the Order and an administrative penalty of \$1,000.00.
- In an Order where a respondent is placed on probated suspension or probated revocation, the Order will state that failure to comply with the terms and conditions of the Order will result in automatic revocation of the probation and the full term of the suspension or the revocation will take effect;
- If a respondent fails to comply with any of the terms or conditions of an Order that will result in automatic suspension or revocation, at least three (3) days prior to the effective date of the suspension or revocation, Board staff will send a written notice to the respondent via e-mail stating that respondent is in violation of the Order and respondent will be suspended or revoked as of the effective date set out in the notice unless, respondent can provide evidence of having previously submitted evidence of timely compliance with the Order. This policy is being put in place as a safeguard against mistakenly suspending or revoking a respondent who was actually in compliance and not as a method for a respondent to comply with terms or conditions after being notified of the violation.

This policy is effective as of May 17, 2013 and remains in effect until and unless changed or revoked by the Board.

Approved by the Board and signed this 17th day of May, 2013.

Walker R. Beard, Chairperson
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 25(b)

Discussion and possible action on recommendations from the Enforcement Committee regarding approval of revised Complaint Intake Form.

SUMMARY

The Complaint Intake Form was revised to allow TALCB to track the impact of the new ASC Complaint National Hotline and verify that appraisers who file complaints against AMCs have followed dispute resolution prerequisites. These proposed revisions were reviewed and recommended by the Board's Enforcement Committee.

STAFF RECOMMENDATION

Approved revisions as presented

RECOMMENDED MOTION

MOVED, that the Board approve the use of the revised Complaint Intake Form as presented.



Standards & Enforcement Services
P.O. Box 12188
Austin, TX 78711-2188
512-936-3621 Fax: 512-936-3966
www.talcb.texas.gov

NOTE: You may type information into this form and it will display, but you will need to print, sign and mail the form along with copies of documents to TALCB when completed. Information entered into this form can only be saved if you are able to print and save the form as a PDF.

TALCB COMPLAINT INTAKE FORM

IF COMPLETING BY HAND, PLEASE PRINT OR TYPE WITH BLACK OR BLUE INK

Upon receipt of this complaint intake form, a preliminary review will be conducted to determine if TALCB has jurisdiction over the matter forming the basis of the complaint. If the matter is not within TALCB's jurisdiction, you will be notified. If it is within TALCB's jurisdiction, TALCB will evaluate the complaint to determine whether sufficient evidence of a violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue disciplinary action. If additional information is necessary, TALCB staff will contact you.

1. I WISH TO FILE A COMPLAINT AGAINST: (check all that apply)

- Appraiser, Appraisal Management Company (AMC), Unlicensed activity

2. MY CONTACT INFORMATION:

Name:
Address:
City State: Zip:
Email Address:
Telephone Numbers: Work: Home: Cell: Fax:

3. INFORMATION CONCERNING THE PERSON OR COMPANY AGAINST WHOM YOU ARE COMPLAINING:

Person's Name:
Company Name:
Physical Address:
City State: Zip:
Telephone Number(s):
TALCB License Number or Registration Number (if known):

4. DOES THIS COMPLAINT INVOLVE AN APPRAISAL?

- Yes No DATE OF APPRAISAL:

Address of property appraised:
Date you first became aware of the issues that are the subject of this complaint:

5. IS THIS MATTER CURRENTLY IN CIVIL LITIGATION?

- Yes No

If yes, please provide your attorney's information below.

Attorney's Name:
Attorney's Address:
City State: Zip:
Telephone Number(s):

6. IS THIS MATTER CURRENTLY SUBJECT TO CRIMINAL PROCEEDINGS?

Yes No

If yes, please provide prosecuting attorney's information below.

Attorney's Name: _____

Attorney's Address: _____

City _____ State: _____ Zip: _____

Telephone Number(s): _____

7. ARE YOU FILING THIS COMPLAINT TO COMPLY WITH MANDATORY REPORTING REQUIREMENTS OF THE DODD-FRANK ACT?

Yes No

ARE YOU FILING THIS COMPLAINT: (check all that apply)

To comply with mandatory reporting requirements of the Dodd-Frank Act?

Following referral from the Appraisal Complaint National Hotline?

8. ARE YOU AN APPRAISER WHO IS FILING THIS COMPLAINT BECAUSE YOU WERE TERMINATED FROM AN AMC PANEL OR BECAUSE OF A FEE DISPUTE?

Yes No

If yes, have you completed a dispute resolution process with the AMC? Yes No

ARE YOU AN APPRAISER, FILING THIS COMPLAINT BECAUSE: (check all that apply)

You were dismissed by an AMC for alleged illegal conduct, an alleged violation of the Uniform Standards of Professional Appraisal Practice, or an alleged violation of the Texas Appraiser Licensing and Certification Act?

You have not been compensated by an AMC within 60 days of providing the appraisal or valuation assignment, or you have not been compensated at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law?

The AMC allegedly engaged in a prohibited act under Texas Occupation Code §1104.203?

Have you made a written request to complete the dispute resolution process offered by the AMC? Yes No

If yes, was the matter resolved by the AMC's dispute resolution process? Yes No

If no, please explain why you did not make a written request to complete the AMC's dispute resolution process.

9. HAVE YOU FILED A COMPLAINT AGAINST THIS PERSON OR COMPANY WITH ANOTHER AGENCY?

Yes No

If yes, which agency? _____

What action has been taken by the other agency? _____

10. COMPLAINT DETAIL: Describe the nature or reason for the complaint. Please send copies of any documents that may assist TALCB in addressing the complaint, such as the appraisal or review appraisal. Attach additional sheets as needed.

11. HAVE YOU PREVIOUSLY NOTIFIED THE PERSON OR COMPANY ABOUT YOUR COMPLAINT? YES NO

How did you notify them? WRITTEN (attach copies) ORAL (detail each contact)

What was the response?

12. PLEASE LIST THE NAME(S), ADDRESS(ES), AND TELEPHONE NUMBER(S) OF ANY WITNESS(ES) WHO HAVE INFORMATION CONCERNING THE SUBJECT MATTER OF YOUR COMPLAINT:

Name: _____ Telephone Number(s): _____

Address: _____

SIGNATURE BLOCK
(TALCB cannot process an unsigned form)

- I certify that the information contained herein and all enclosed documents are true and correct to the best of my knowledge.
- I understand that a copy of my complaint intake form will be made available to the person or company against whom it is filed and a copy of my complaint intake form and accompanying documentation is subject to public inspection in accordance with the Public Information Act (Chapter 552, Government Code).

Signature

Date

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 26

Discussion regarding jurisdictional exception under 22 TAC §155.1.



AGENDA ITEM 27(a-c)

Discussion and possible action to approve the following revised forms:

- a. Renewal of Appraiser Trainee Approval
- b. Renewal of Appraiser License
- c. Renewal of Appraiser Certification

SUMMARY

In preparation for all appraiser licensees to be able to renew online, staff conducted a comprehensive review of the instructions for and information required in the renewal application process. These revised forms are the result of that review and the forms were given an updated look. The online application instructions and information required will be based off of these forms. These forms also incorporate the \$20 paper filing fee that will become effective when the renewal process becomes available online. The current form is behind each proposed new form for reference.

STAFF RECOMMENDATION

Approve the revised forms as presented to become effective when the renewal process becomes available online.

RECOMMENDED MOTION

MOVED, that the Board approve the use of the revised Renewal of Appraiser Trainee Approval, Renewal of Appraiser License, and Renewal of Appraiser Certification forms as presented to become effective when the renewal process becomes available online.



Trainee Renewal Form Information

**THIS FORM IS FOR THE TIMELY RENEWAL OF A TRAINEE APPROVAL
OR FOR RENEWAL OF A TRAINEE APPROVAL
THAT HAS BEEN EXPIRED LESS THAN SIX MONTHS**

BREAK DOWN OF FEES	Trainee timely renewal	Trainee late renewal 90 days or less	Trainee late renewal more than 90 days but less than 6 mos.
TALCB Renewal Fee	270.00	405.00	540.00
Online Fee	5.00	5.00	5.00
Paper Filing Fee	20.00	20.00	20.00
TALCB Newsletter Fee <i>(optional)</i>	4.00	4.00	4.00

IMPORTANT INFORMATION - PLEASE READ CAREFULLY

- **ALL FEES LISTED ABOVE ARE NONREFUNDABLE AND MUST BE SUBMITTED WITH THE APPLICATION.** AN APPLICATION SUBMITTED WITHOUT THE APPROPRIATE FEES WILL BE REJECTED AND RETURNED. All fees should be paid by a single **CASHIERS CHECK, PERSONAL CHECK OR MONEY ORDER** payable to TALCB. DO NOT PAY WITH CASH. You can avoid the \$20 paper filing fee if you renew online at www.talcb.texas.gov.
- Renewals submitted by mail must be postmarked on or before your license expiration date.
- **Additional documents must be submitted to TALCB** regarding Appraiser Continuing Education (ACE) and Experience Logs to complete this renewal application. See details below.
- If your sponsor(s) will be different during this renewal term, you must submit the Addition or Termination of Appraiser Trainee Sponsorship form and the applicable fee with this application.
- NOTE: Under State Law, TALCB cannot renew your license if you have defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless you have entered into a repayment agreement with TG. Your renewal application will be rejected if we receive information from TG that you have defaulted on a student loan. **YOU MUST CONTACT TG BEFORE FILING THIS APPLICATION IF YOU HAVE DEFAULTED ON A STUDENT LOAN.** TG can be contacted at: P.O. Box 83100, Round Rock, TX 78683-3100 or 1-800-252-9743.
- Your authorization is not renewed until TALCB has received AND approved the renewal application, fee, ACE documentation, and experience log and affidavit. Please allow sufficient time prior to your expiration date for evaluation and processing.

REQUIREMENTS AND DOCUMENTATION

To renew ACTIVE

- Trainees must complete 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update.
- Required education must be completed during the term of the license being renewed. Hours cannot be carried over from one renewal term to another.
- Credit will not be awarded for the same course taken more than once within 3 years (except for the National USPAP Update Course).
- You must provide an Appraisal Experience Log and accompanying Appraisal Experience Affidavit for all appraisal assignments completed during the renewal term.

If you expire and want to become active within 6 months of expiration, you must complete the required ACE hours, pay the applicable renewal fee, as well as submit an Addition or Termination of Appraiser Trainee Sponsorship form and fee for each sponsor.

If you have been expired more than 6 months, you must submit the Application for Approval as an Appraiser Trainee and meet all then-current requirements for authorization.

To renew INACTIVE

A trainee may file a renewal application and renew an authorization in inactive status without submitting ACE. A licensee cannot engage in appraisal practice with an inactive license.

Complete the application fully and mail with check or money order payable to TALCB. 285 of 318



Texas Appraiser Licensing & Certification Board

P.O. Box 12188

Austin, Texas 78711-2188

www.talcb.texas.gov 512-936-3001

RENEWAL OF APPRAISER TRAINEE APPROVAL

FEES	RECEIPT NUMBER	AMOUNT	MONEY TYPE
TIMELY RENEWAL		\$299.00	
EXPIRED 90 DAYS OR LESS		\$434.00	
EXPIRED MORE THAN 90 DAYS BUT LESS THAN 6 MONTHS		\$569.00	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

1. Full Name: (as it appears on trainee approval)

Last First Middle

2. Trainee Approval Number: _____ **3. Expiration Date:** _____

4. Renewal Type: Timely Expired 90 days or less Expired more than 90 days

5. Renewal Status: Active Inactive

6. Mailing Address and Contact Information: (Post Office Box may be used)

Number, Street and Apt No.

City State Zip Code Phone Number

Fax Number E-mail Address

7. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

8. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certifications you hold? Yes No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

9. Since your last renewal, have you (1) been convicted of or pleaded *nolo contendere* to a criminal offence (Include ALL felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); (2) been placed on probation, community supervision, or deferred adjudication; or (3) are there any criminal charges pending against you? Yes No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

10. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If YES, submit a complete written explanation and copies of all petitions and judgments.

11. Provide a copy of an appraisal log and affidavit on forms prescribed by the board for the period of licensure being renewed. Yes No

12. Are you currently in default on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG)? Yes No
If YES, submit a copy of your repayment agreement with TG.

13. Complete the chart below with the Appraiser Continuing Education (ACE) you have completed to meet the minimum renewal education requirement of 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update. Note: Only 7 hours from a USPAP Update course can be counted in the total ACE hours.

You must submit copies of ACE course completion documents for all education listed.

Course/Seminar Title	Course Provider or Sponsor	Date Completed	Hours
Total ACE Hours Completed			

CERTIFICATION OF TRAINEE

- I have personally completed all coursework listed on this renewal form and am submitting copies of course completion documents with this form.
- All information I have submitted in this renewal form is true and correct. I understand my certification or license may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.
- I certify that my sponsor(s) have not changed except as noted on the Addition or Termination of Appraiser Trainee Sponsorship form submitted with this application.
- I understand that my certification or license is not renewed until the TALCB reissues my certification or license.

_____ _____
Date Signed **Signature of Trainee**

Be certain that your renewal application:

- * Is complete - incomplete renewals cannot be processed and will be returned
- * Is signed and dated
- * Is postmarked no later than the expiration date
- * Contains experience logs and affidavit(s)
- * Includes copies of ACE course completion documents for this renewal
- * Includes copies of required documents for any "YES" answers

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



RENEWAL OF APPRAISER TRAINEE APPROVAL

Timely Renewal	\$270.00		
Expired 90 days or less	\$405.50		
Expired more than 90 days but less than 6 months	\$540.00		
REQUIRED FEES	AMOUNT	REGISTER NUMBER	DATE RECEIVED
Online Fee	\$5.00	Online fee required whether renewing online or on paper	
TALCB Bulletin Fee	\$4.00	(optional)	
Total Enclosed With Application		<input type="checkbox"/> Check here to renew in inactive status	
MAKE CHECKS OR MONEY ORDERS PAYABLE TO: TALCB ALL INFORMATION MUST BE PRINTED IN INK. INCOMPLETE FORMS WILL NOT BE ACCEPTED.			

1. Full Name: _____
(As it appears on trainee approval)

2. Trainee Approval Number: TX- _____
 Expiration date _____

Education Required for this Renewal _____

Authority to act as an appraiser trainee will cease on the expiration date unless the trainee approval is renewed. Please allow sufficient time for evaluation and processing.

It is essential that the TALCB records reflect your current mailing address and other contact information at all times. Please complete the following permanent mailing address and contact information:

3. _____
Street Address OR P.O. Box No. Apt. or Suite

City State Zip Code

Telephone No. Alternate/Cell Telephone No.

Fax No. Email Address

4. _____
Business physical (street) address

City State Zip Code Telephone number

Name of Sponsor

Sponsor's Certification Number

Signature of Sponsor

Date Signed

This document is available on the TALCB website at www.talcb.texas.gov



APPRAISER CONTINUING EDUCATION (ACE) COURSES

If renewing online, please fax this form and course completion documents to: (512) 936-3899

If renewing by mail, please submit this form and course completion documents with your renewal application.

Complete the chart below using the AQB Code and AQB Acceptable ACE Topics* listed on this page. For each course or seminar completed for ACE credit, enter the appropriate AQB Number*, the course/seminar title, and other course information requested. Courses and seminars must have been devoted to one or more of the AQB Acceptable Topics listed, must have been at least two hours in length, and must have been satisfactorily completed within the two-year period being renewed. An Appraiser Trainee must complete **a total of 28 hours of acceptable ACE, which must include 7 hours of National USPAP Update Course**. Please fax copies of ACE Course completion documents with this form for the courses you list in the chart below.

If additional information is requested, you will be notified by the TALCB and will have 20 days to provide the required documentation; you should reply as soon as possible to complete this renewal process.

Appraisers MUST take the 7-hour National USPAP Update Course as a condition for renewing a certification, license, or approval.

NOTE: Courses must be completed during the renewal period.

AQB No.*	Course/Seminar Title	Course Provider or Sponsor	Date Completed	Classroom Hours
Total ACE Hours Completed				

*AQB No. for AQB Acceptable ACE Topics

- | | | | |
|----|--|----|---|
| 01 | USPAP/National USPAP/USPAP Update | 09 | Property development |
| 02 | Ethics and Standards | 10 | Real estate law |
| 03 | Ad Valorem Taxation | 11 | Real estate litigation |
| 04 | Arbitration | 12 | Real estate financing and investment |
| 05 | Courses related to practice of real estate appraisal or consulting | 13 | Real estate appraisal related computer applications |
| 06 | Development cost estimating | 14 | Real estate securities and syndication |
| 07 | Land use planning, zoning and taxation | | |
| 08 | Management, leasing, brokerage, timesharing | | |

I certify the following:

- I have personally completed all coursework listed on this form.
- I understand my approval may be revoked, or other disciplinary action taken, if I furnish false or misleading information.

Appraiser's Printed Name

Appraiser Certification/License No.

Appraiser's Signature

Date Signed

5. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled, or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If "YES" please attach a complete written explanation and appropriate documentation such as final orders, etc.
6. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certification you hold? Yes No
If "yes", please attach a complete written explanation and appropriate documentation such as final orders, etc.
7. Since your last renewal, have you (1) been convicted of a criminal offense (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); pleaded *nolo contendere*; (2) been placed on probation, community supervision, or deferred adjudication; and (3) are there any criminal charges pending against you? Yes No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.
8. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If "YES" attach a complete written explanation and copies of all petitions and judgments.
9. Provide a copy of an appraisal log and affidavit on forms prescribed by the board for the period of licensure being renewed. Yes No
10. Are you currently in default on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation? **NOTE: State law prohibits renewing a license after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the licensee has entered into a repayment agreement with TG. YOU should contact TG BEFORE filing this application if you have defaulted on a student loan. A renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan. TG may be contact at: Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100, Phone : 1-800-252-9743.** Yes No

I certify the following:

- I have personally completed all coursework listed on page two of this renewal form and am submitting copies of course completion documents with this form.
- All information I have submitted in this renewal form is true and correct. I understand my certification or license may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.
- I understand that my failure to comply with any request for verification of ACE documents may result in revocation or suspension of my certification or license, or other disciplinary action.
- I understand that my certification or license is not renewed until the TALCB reissues my certification or license.

 Trainee's Printed Name

 Trainee's Signature

 Date Signed

Be certain that your renewal application:

- Is complete - incomplete renewals cannot be processed and will be returned
- Is signed and dated
- Is postmarked no later than the expiration date
- Contains experience logs and affidavit(s)
- Includes copies of ACE course completion documents for this renewal period.
- Contains a single check in the exact total amount. (Note: A separate check must accompany each renewal form.)

IMPORTANT

Appraiser Certification and Licensing Renewal
Please attach experience logs and affidavits with this renewal

- Additional information about renewals, acceptable courses, and other appraiser and TALCB issues and procedures are available at the TALCB web site: www.talcb.texas.gov
- To keep informed on the latest rules proposed and adopted by the Board, go to the following website link: www.talcb.texas.gov/ActAndRules/default.asp
- To assure that your appraisals and appraisal reports are in compliance with USPAP, obtain and review the latest editions of **National USPAP** and **USPAP Frequently Asked Questions**, available from The Appraisal Foundation, P.O. Box 96734, Washington DC 20090-6734 (Phone: 202-347-7722) or www.appraisalfoundation.org

Return this completed renewal form together with all required fees and documents to the address below.
All payments are non-refundable and must be in the exact amount.

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
P.O. Box 12188
Austin, TX 78711-2188

Reminder: Under state law, you must notify the TALCB of a change of business address in writing within ten days of moving. You may manage your contact information through online services.

PRIVACY NOTICE

The following notice about certain information, laws, and practices is given in accordance with Chapter 559, Texas Government Code.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



Appraiser License Renewal Form Information Sheet

**THIS FORM IS FOR THE TIMELY RENEWAL OF AN APPRAISER LICENSE
OR FOR RENEWAL OF AN APPRAISER LICENSE
THAT HAS BEEN EXPIRED LESS THAN SIX MONTHS**

BREAK DOWN OF FEES	License timely renewal	License late renewal 90 days or less	License late renewal more than 90 days but less than 6 mos.
TALCB Renewal Fee	295.00	442.50	590.00
National Registry Fee <i>(only for active renewals)</i>	80.00	80.00	80.00
Online Fee	5.00	5.00	5.00
Paper Filing Fee	20.00	20.00	20.00
TALCB Newsletter Fee <i>(optional)</i>	4.00	4.00	4.00

IMPORTANT INFORMATION - PLEASE READ CAREFULLY

- **ALL FEES LISTED ABOVE ARE NONREFUNDABLE AND MUST BE SUBMITTED WITH THE APPLICATION.** AN APPLICATION SUBMITTED WITHOUT THE APPROPRIATE FEES WILL BE REJECTED AND RETURNED. All fees should be paid by a single **CASHIERS CHECK, PERSONAL CHECK OR MONEY ORDER** payable to TALCB. DO NOT PAY WITH CASH. You can avoid the \$20 paper filing fee if you renew online at www.talcb.texas.gov.
- Renewals submitted by mail must be postmarked on or before your license expiration date.
- **Additional documents must be submitted to TALCB** regarding Appraiser Continuing Education (ACE) to complete this renewal application. See details below.
- NOTE: Under State Law, TALCB cannot renew your license if you have defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless you have entered into a repayment agreement with TG. Your renewal application will be rejected if we receive information from TG that you have defaulted on a student loan. **YOU MUST CONTACT TG BEFORE FILING THIS APPLICATION IF YOU HAVE DEFAULTED ON A STUDENT LOAN.** TG can be contacted at: P.O. Box 83100, Round Rock, TX 78683-3100 or 1-800-252-9743.
- Your license is not renewed until TALCB has received AND approved the renewal application, fee, and ACE documentation. Please allow sufficient time prior to your expiration date for evaluation and processing.

REQUIREMENTS AND DOCUMENTATION

To renew **ACTIVE**

- Licensees must complete 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update.
- Required education must be completed during the term of the license being renewed. Hours cannot be carried over from one renewal term to another.
- Credit will not be awarded for the same course taken more than once within 3 years (except for the National USPAP Update Course).

If you expire and want to become active within 6 months of expiration, you must complete the required ACE hours, pay the applicable renewal fee.

If you have been expired more than 6 months, you must submit the Application for Appraiser License and meet all then-current requirements for authorization.

To renew **INACTIVE**

A licensee may file a renewal application and renew a license in inactive status without submitting ACE. A licensee cannot engage in appraisal practice with an inactive license.

Complete the application fully and mail with check or money order payable to TALCB. 292 of 318



Texas Appraiser Licensing & Certification Board

P.O. Box 12188

Austin, Texas 78711-2188

www.talcb.texas.gov 512-936-3001

RENEWAL OF APPRAISER LICENSE

FEES	RECEIPT NUMBER	AMOUNT TO RENEW <u>ACTIVE</u>	AMOUNT TO RENEW <u>INACTIVE</u>	MONEY TYPE
TIMELY RENEWAL		\$404.00	\$324.00	
EXPIRED 90 DAYS OR LESS		\$551.50	\$471.50	
EXPIRED MORE THAN 90 DAYS BUT LESS THAN 6 MONTHS		\$699.00	\$619.00	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

1. Full Name: (as it appears on certification)

Last First Middle

2. License Number: _____ **3. Expiration Date:** _____

4. Renewal Type: Timely Expired 90 days or less Expired more than 90 days

5. Renewal Status: Active Inactive

6. Mailing Address and Contact Information: (Post Office Box may be used)

Number, Street and Apt No.

City State Zip Code Phone Number

Fax Number E-mail Address

7. Place of Business Address: (Must be a fixed street address, not a Post Office Box)

Number, Street and Suite No.

City State Zip Code Phone Number

8. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No

If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

9. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certifications you hold? Yes No

If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

10. Since your last renewal, have you (1) been convicted of or pleaded *nolo contendere* to a criminal offence (Include ALL felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); (2) been placed on probation, community supervision, or deferred adjudication; or (3) are there any criminal charges pending against you? Yes No

If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

11. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If YES, submit a complete written explanation and copies of all petitions and judgments.

12. Are you currently in default on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG)? Yes No
If YES, submit a copy of your repayment agreement with TG.

13. Complete the chart below with the Appraiser Continuing Education (ACE) you have completed to meet the minimum renewal education requirement of 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update. Note: Only 7 hours from a USPAP Update course can be counted in the total ACE hours.
You must submit copies of ACE course completion documents for all education listed.

Course/Seminar Title	Course Provider or Sponsor	Date Completed	Hours
Total ACE Hours Completed			

CERTIFICATION OF APPRAISER

- I have personally completed all coursework listed on this renewal form and am submitting copies of course completion documents with this form.

- All information I have submitted in this renewal form is true and correct. I understand my certification or license may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.

- I understand that my license is not renewed until the TALCB reissues my license.

Date SignedSignature of Appraiser

Be certain that your renewal application:

- * Is complete - incomplete renewals cannot be processed and will be returned
- * Is signed and dated
- * Is postmarked no later than the expiration date
- * Includes copies of ACE course completion documents for this renewal
- * Includes copies of required documents for any "YES" answers

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

(1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.

(2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.

(3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

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RENEWAL OF APPRAISER LICENSE

Fee (2-year)	Appraiser License
Timely Renewal	\$295.00
Expired 90 days or less	\$442.50
Expired more than 90 days but less than 6 months	\$590.00

REQUIRED FEES	AMOUNT	REGISTER NUMBER	DATE RECEIVED
License (see chart above)			
TALCB Bulletin Fee	\$4.00	(optional fee)	
National Registry (if renewing active)	\$80.00	<input type="checkbox"/> Check here to renew in inactive status (National Registry Fee is not required if renewing inactive)	
Total Enclosed With Application			

**MAKE CHECKS OR MONEY ORDERS PAYABLE TO: TALCB
ALL INFORMATION MUST BE PRINTED IN INK. INCOMPLETE FORMS WILL NOT BE ACCEPTED.**

- Full Name _____
(Print name exactly as it appears on certification)
- License Number: TX- _____
Expiration date _____

A total of 28 hours of acceptable ACE is required to renew active and must include 7 hours of the National USPAP Update Course.

Authority to act as a certified or licensed appraiser will cease on the expiration date unless renewed. Please allow sufficient time for evaluation and processing.

It is essential that the TALCB records reflect your current mailing address and other contact information at all times. Please complete the following permanent mailing address and contact information:

- _____ Apt. or Suite

Street Address OR P.O. Box No.

_____ City _____ State _____ Zip Code

_____ Telephone No. _____ Alternate/Cell Telephone No.

_____ Fax No. _____ Email Address

- _____

Business physical (street) address

_____ City _____ State _____ Zip Code _____ Telephone number

This document is available on the TALCB website at www.talcb.texas.gov.



APPRAISER CONTINUING EDUCATION (ACE) COURSES

If renewing online, please fax this form and course completion documents to: (512) 936-3899

If renewing by mail, please submit this form and course completion documents with your renewal application.

Complete the chart below using the AQB Code and AQB Acceptable ACE Topics* listed on this page. For each course or seminar completed for ACE credit, enter the appropriate AQB Number*, the course/seminar title, and other course information requested. Courses and seminars must have been devoted to one or more of the AQB Acceptable Topics listed, must have been at least two hours in length, and must have been satisfactorily completed within the two-year certification/licensure period being renewed. **A total of 28 hours of acceptable ACE is required, which must include 7 hours of National USPAP Update Course.** Please fax copies of ACE Course completion documents with this form for the courses you list in the chart below.

If additional information is requested, you will be notified by the TALCB and will have 20 days to provide the required documentation; you should reply as soon as possible to complete this renewal process.

Appraisers MUST take the 7-hour National USPAP Update Course as a condition for renewing a certification or license. If you have not completed your required ACE, you must submit an ACE Extension Request Form and fee prior to your expiration date.

AQB No.*	Course/Seminar Title	Course Provider or Sponsor	Date Completed	Classroom Hours
Total ACE Hours Completed				

*AQB No. for AQB Acceptable ACE Topics

- | | | | |
|----|--|----|---|
| 01 | USPAP/National USPAP/USPAP Update | 09 | Property development |
| 02 | Ethics and Standards | 10 | Real estate law |
| 03 | Ad Valorem Taxation | 11 | Real estate litigation |
| 04 | Arbitration | 12 | Real estate financing and investment |
| 05 | Courses related to practice of real estate appraisal or consulting | 13 | Real estate appraisal related computer applications |
| 06 | Development cost estimating | 14 | Real estate securities and syndication |
| 07 | Land use planning, zoning and taxation | | |
| 08 | Management, leasing, brokerage, timesharing | | |

I certify the following:

- I have personally completed all coursework listed on this form.
- I understand my certification may be revoked, or other disciplinary action taken, if I furnish false or misleading information.

Appraiser's Printed Name

Appraiser Certification/License No.

Appraiser's Signature

Date Signed

5. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled, or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If "YES" please attach a complete written explanation and appropriate documentation such as final orders, etc.
6. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certification you hold? Yes No
If "yes", please attach a complete written explanation and appropriate documentation such as final orders, etc.
7. Since your last renewal, have you (1) been convicted of a criminal offense (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); pleaded *nolo contendere*; (2) been placed on probation, community supervision, or deferred adjudication; and (3) are there any criminal charges pending against you? Yes No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.
8. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If "YES" attach a complete written explanation and copies of all petitions and judgments.
9. Are you currently in default on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation? **NOTE: State law prohibits renewing a license after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the licensee has entered into a repayment agreement with TG. YOU should contact TG BEFORE filing this application if you have defaulted on a student loan. A renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan. TG may be contact at: Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100, Phone : 1-800-252-9743.** Yes No

I certify the following:

- I have personally completed all coursework listed on page two of this renewal form and am submitting copies of course completion documents with this form.
- All information I have submitted in this renewal form is true and correct. I understand my license may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.
- I understand that my failure to comply with any request for verification of ACE documents may result in revocation or suspension of my license, or other disciplinary action.
- I understand that my license is not renewed until the TALCB reissues my license.

Be certain that your renewal application:

- Is complete - incomplete renewals cannot be processed and will be returned
- Is signed and dated
- Is postmarked no later than the expiration date
- Includes copies of ACE course completion documents for this renewal period.
- Contains a single check in the exact total amount. (Note: A separate check must accompany each renewal form.)

IMPORTANT

Appraiser Certification and Licensing Renewal

- Additional information about renewals, acceptable courses, and other appraiser and TALCB issues and procedures are available at the TALCB web site: www.talcb.texas.gov
- To keep informed on the latest rules proposed and adopted by the Board, go to the following website link: www.talcb.texas.gov/ActAndRules/default.asp
- To assure that your appraisals and appraisal reports are in compliance with USPAP, obtain and review the latest editions of **National USPAP and USPAP Frequently Asked Questions**, available from The Appraisal Foundation, P.O. Box 96734, Washington DC 20090-6734 (Phone: 202-347-7722) or www.appraisalfoundation.org

Return this completed renewal form together with all required fees and documents to the address below.
All payments are non-refundable and must be in the exact amount.

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
P.O. Box 12188
Austin, TX 78711-2188

Reminder: Under state law, you must notify the TALCB of a change of business address in writing within ten days of moving. You may manage your contact information through online services.

Appraiser's Printed Name

Appraiser's Signature

Date Signed

PRIVACY NOTICE

The following notice about certain information, laws, and practices is given in accordance with Chapter 559, Texas Government Code.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Government Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



Appraiser Certification Renewal Form Information Sheet

**THIS FORM IS FOR THE TIMELY RENEWAL OF AN APPRAISER CERTIFICATION
OR FOR RENEWAL OF AN APPRAISER CERTIFICATION
THAT HAS BEEN EXPIRED LESS THAN SIX MONTHS**

BREAK DOWN OF FEES	RESIDENTIAL CERTIFICATION			GENERAL CERTIFICATION		
	Timely renewal	Late renewal 90 days or less	Late renewal more than 90 days but less than 6 mos.	Timely renewal	Late renewal 90 days or less	Late renewal more than 90 days but less than 6 mos.
TALCB Renewal Fee	320.00	480.00	640.00	370.00	555.00	740.00
National Registry Fee <i>(only for active renewals)</i>	80.00	80.00	80.00	80.00	80.00	80.00
Online Fee	5.00	5.00	5.00	5.00	5.00	5.00
Paper Filing Fee	20.00	20.00	20.00	20.00	20.00	20.00
TALCB Newsletter Fee <i>(optional)</i>	4.00	4.00	4.00	4.00	4.00	4.00

IMPORTANT INFORMATION - PLEASE READ CAREFULLY

- **ALL FEES LISTED ABOVE ARE NONREFUNDABLE AND MUST BE SUBMITTED WITH THE APPLICATION.** AN APPLICATION SUBMITTED WITHOUT THE APPROPRIATE FEES WILL BE REJECTED AND RETURNED. All fees should be paid by a single **CASHIERS CHECK, PERSONAL CHECK OR MONEY ORDER** payable to TALCB. DO NOT PAY WITH CASH. You can avoid the \$20 paper filing fee if you renew online at www.talcb.texas.gov.
- Renewals submitted by mail must be postmarked on or before your license expiration date.
- **Additional documents must be submitted to TALCB** regarding Appraiser Continuing Education (ACE) to complete this renewal application. See details below.
- NOTE: Under State Law, TALCB cannot renew your license if you have defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless you have entered into a repayment agreement with TG. Your renewal application will be rejected if we receive information from TG that you have defaulted on a student loan. **YOU MUST CONTACT TG BEFORE FILING THIS APPLICATION IF YOU HAVE DEFAULTED ON A STUDENT LOAN.** TG can be contacted at: P.O. Box 83100, Round Rock, TX 78683-3100 or 1-800-252-9743.
- Your certification is not renewed until TALCB has received AND approved the renewal application, fee, and ACE documentation. Please allow sufficient time prior to your expiration date for evaluation and processing.

REQUIREMENTS AND DOCUMENTATION

To renew ACTIVE

- Licensees must complete 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update.
- Required education must be completed during the term of the license being renewed. Hours cannot be carried over from one renewal term to another.
- Credit will not be awarded for the same course taken more than once within 3 years (except for the National USPAP Update Course).

If you expire and want to become active within 6 months of expiration, you must complete the required ACE hours and pay the applicable renewal fee.

If you have been expired more than 6 months, you must submit an initial application and meet all then-current requirements for authorization.

For an INACTIVE renewal

A licensee may file a renewal application and renew a license in inactive status without submitting ACE. A licensee cannot engage in appraisal practice with an inactive license.

Complete the application fully and mail with check or money order payable to TALCB.



Texas Appraiser Licensing & Certification Board

P.O. Box 12188

Austin, Texas 78711-2188

www.talcb.texas.gov 512-936-3001

RENEWAL OF APPRAISER CERTIFICATION

FEES	RECEIPT NUMBER	RESIDENTIAL CERTIFICATION		GENERAL CERTIFICATION		MONEY TYPE
		Amount to Renew <u>ACTIVE</u>	Amount to Renew <u>INACTIVE</u>	Amount to Renew <u>ACTIVE</u>	Amount to Renew <u>INACTIVE</u>	
TIMELY RENEWAL		\$429.00	\$349.00	\$479.00	\$399.00	
EXPIRED 90 DAYS OR LESS		\$589.00	\$509.00	\$664.00	\$584.00	
EXPIRED MORE THAN 90 DAYS BUT LESS THAN 6 MONTHS		\$749.00	\$669.00	\$849.00	\$769.00	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

1. Full Name: (as it appears on certification)

Last First Middle

2. Certification Number: _____ **3. Expiration Date:** _____

4. Renewal Type: Timely Expired 90 days or less Expired more than 90 days

5. Renewal Status: Active Inactive

6. Mailing Address and Contact Information: (Post Office Box may be used)

Number, Street and Apt No.

City State Zip Code Phone Number

Fax Number E-mail Address

7. Place of Business Address: (Must be a fixed street address, not a Post Office Box)

Number, Street and Suite No.

City State Zip Code Phone Number

8. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No

If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

9. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certifications you hold? Yes No

If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

10. Since your last renewal, have you (1) been convicted of or pleaded *nolo contendere* to a criminal offence (Include ALL felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); (2) been placed on probation, community supervision, or deferred adjudication; or (3) are there any criminal charges pending against you? Yes No

If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

11. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If YES, submit a complete written explanation and copies of all petitions and judgments.

12. Are you currently in default on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG)? Yes No
If YES, submit a copy of your repayment agreement with TG.

13. Complete the chart below with the Appraiser Continuing Education (ACE) you have completed to meet the minimum renewal education requirement of 28 hours of acceptable ACE, that must include 7 hours from a National USPAP Update. Note: Only 7 hours from a USPAP Update course can be counted in the total ACE hours.
You must submit copies of ACE course completion documents for all education listed.

Course/Seminar Title	Course Provider or Sponsor	Date Completed	Hours
Total ACE Hours Completed			

CERTIFICATION OF APPRAISER

- I have personally completed all coursework listed on this renewal form and am submitting copies of course completion documents with this form.

- All information I have submitted in this renewal form is true and correct. I understand my certification or license may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.

- I understand that my certification is not renewed until the TALCB reissues my certification.

Date SignedSignature of Appraiser

Be certain that your renewal application:

- * Is complete - incomplete renewals cannot be processed and will be returned
- * Is signed and dated
- * Is postmarked no later than the expiration date
- * Includes copies of ACE course completion documents for this renewal
- * Includes copies of required documents for any "YES" answers

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

- (1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.
- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.
- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

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RENEWAL OF APPRAISER CERTIFICATION

Fee (2-year)		General Certification	Residential Certification
Timely Renewal		\$370.00	\$320.00
Expired 90 days or less		\$555.00	\$480.00
Expired more than 90 days but less than 6 months		\$740.00	\$640.00
REQUIRED FEES	AMOUNT	REGISTER NUMBER	DATE RECEIVED
Certification (see chart above)			
Online Fee	\$5.00	Online fee required whether renewing online or on paper	
Paper Filing Fee	\$20.00	(Fee not required if filed online)	
TALCB Bulletin Fee	\$4.00	optional	
National Registry (if renewing active)	\$80.00	<input type="checkbox"/> Check here to renew in inactive status (National Registry Fee is not required if renewing inactive)	
Total Enclosed With Application			
MAKE CHECKS OR MONEY ORDERS PAYABLE TO: TALCB ALL INFORMATION MUST BE PRINTED IN INK. INCOMPLETE FORMS WILL NOT BE ACCEPTED.			

1. Full Name _____
 (Print name exactly as it appears on certification)

2. Certification Number: TX- _____
 Expiration date _____

If renewing active a total of 28 hours of acceptable ACE is required, which must include 7 hours of the National USPAP Update Course.

Authority to act as a certified or licensed appraiser will cease on the expiration date unless renewed. Please allow sufficient time for evaluation and processing.

It is essential that the TALCB records reflect your current mailing address and other contact information at all times. Please complete the following permanent mailing address and contact information:

3. _____
 Street Address OR P.O. Box No. Apt. or Suite

 City State Zip Code

 Telephone No. Alternate/Cell Telephone No.

 Fax No. Email Address

4. _____
 Business physical (street) address

 City State Zip Code Telephone number

This document is available on the TALCB website at www.talcb.texas.gov



APPRAISER CONTINUING EDUCATION (ACE) COURSES

If renewing online, please fax this form and course completion documents to: (512) 936-3899

If renewing by mail, please submit this form and course completion documents with your renewal application.

Complete the chart below using the AQB Code and AQB Acceptable ACE Topics* listed on this page. For each course or seminar completed for ACE credit, enter the appropriate AQB Number*, the course/seminar title, and other course information requested. Courses and seminars must have been devoted to one or more of the AQB Acceptable Topics listed, must have been at least two hours in length, and must have been satisfactorily completed within the two-year certification/licensure period being renewed. **A total of 28 hours of acceptable ACE is required, which must include 7 hours of National USPAP Update Course.** Please fax copies of ACE Course completion documents with this form for the courses you list in the chart below.

If additional information is requested, you will be notified by the TALCB and will have 20 days to provide the required documentation; you should reply as soon as possible to complete the renewal process.

Appraisers MUST take the 7-hour National USPAP Update Course as a condition for renewing a certification or license. If you have not completed your required ACE, you must submit an ACE Extension Request Form and fee prior to your expiration date.

AQB No.*	Course/Seminar Title	Course Provider or Sponsor	Date Completed	Classroom Hours
Total ACE Hours Completed				

*AQB No. for AQB Acceptable ACE Topics

- | | | | |
|----|--|----|---|
| 01 | USPAP/National USPAP/USPAP Update | 09 | Property development |
| 02 | Ethics and Standards | 10 | Real estate law |
| 03 | Ad Valorem Taxation | 11 | Real estate litigation |
| 04 | Arbitration | 12 | Real estate financing and investment |
| 05 | Courses related to practice of real estate appraisal or consulting | 13 | Real estate appraisal related computer Applications |
| 06 | Development cost estimating | 14 | Real estate securities and syndication |
| 07 | Land use planning, zoning and taxation | | |
| 08 | Management, leasing, brokerage, timesharing | | |

I certify the following:

- I have personally completed all coursework listed on this form.
- I understand my certification may be revoked, or other disciplinary action taken, if I furnish false or misleading information.

Appraiser's Printed Name

Appraiser Certification/License No.

Appraiser's Signature

Date Signed

5. Since your last renewal, have you: (1) had any professional or occupational license or certification suspended, canceled, or revoked; (2) received a reprimand, warning letter, or disciplinary action; or (3) had an application for such denied in Texas or any other state? Yes No
If "YES" please attach a complete written explanation and appropriate documentation such as final orders, etc.
6. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certification you hold? Yes No
If "yes", please attach a complete written explanation and appropriate documentation such as final orders, etc.
7. Since your last renewal, have you (1) been convicted of a criminal offense (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); pleaded *nolo contendere*; (2) been placed on probation, community supervision, or deferred adjudication; and (3) are there any criminal charges pending against you? Yes No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.
8. Since your last renewal, have you had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If "YES" attach a complete written explanation and copies of all petitions and judgments.

I certify the following:

- I have personally completed all coursework listed on page two of this renewal form and am submitting copies of course completion documents with this form.
- All information I have submitted in this renewal form is true and correct. I understand my certification may be revoked, or other disciplinary action taken, if I furnish false or misleading information on this renewal application.
- I understand that my failure to comply with any request for verification of ACE documents may result in revocation or suspension of my certification, or other disciplinary action.
- I understand that my certification is not renewed until the TALCB reissues my certification.

 Appraiser's Printed Name

 Appraiser's Signature

 Date Signed

Be certain that your renewal application:

- Is complete - incomplete renewals cannot be processed and will be returned
- Is signed and dated
- Is postmarked no later than the expiration date
- Includes copies of ACE course completion documents for this renewal period
- Contains a single check in the exact total amount. (Note: A separate check must accompany each renewal form.)

State law requires the following statement on all renewal notices: If you have defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation, the next renewal of your license, certification or approval may be prohibited. Defaults on other student loans are not subject to this provision.

IMPORTANT

Appraiser Certification and Licensing Renewal

- Additional information about renewals, acceptable courses, and other appraiser and TALCB issues and procedures are available at the TALCB web site: www.talcb.texas.gov
- To keep informed on the latest rules proposed and adopted by the Board, go to the following website link: www.talcb.texas.gov/ActAndRules/default.asp
- To assure that your appraisals and appraisal reports are in compliance with USPAP, obtain and review the latest editions of **National USPAP** and **USPAP Frequently Asked Questions**, available from The Appraisal Foundation, P.O. Box 96734, Washington DC 20090-6734 (Phone: 202-347-7722) or www.appraisalfoundation.org

Return this completed renewal form together with all required fees and documents to the address below.
All payments are non-refundable and must be in the exact amount.

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
P.O. Box 12188
Austin, TX 78711-2188

Reminder: Under state law, you must notify the TALCB of a change of business address in writing within ten days of moving. You may manage your contact information through online services.

PRIVACY NOTICE

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- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.



AGENDA ITEM 27(d-e)

Discussion and possible action to approve the following revised forms:

- d. Application for Approval as an Appraiser Trainee
- e. Addition or Termination of Appraiser Trainee Sponsorship

SUMMARY

These forms were revised to incorporate the amendments to 22 TAC 153.21 proposed for adoption at this meeting regarding sponsor notification of disciplinary action in the past three years that did not result in a restriction on the sponsor's ability to perform appraisal services.

STAFF RECOMMENDATION

Approve the revised forms as presented.

RECOMMENDED MOTION

MOVED, that the Board approve the use of the revised Application for Approval as an Appraiser Trainee and Addition or Termination of Appraiser Trainee Sponsorship forms as presented.



**APPLICATION FOR APPROVAL
AS AN APPRAISER TRAINEE**

FEES	AMOUNT	REGISTER NUMBER	DATE RECEIVED
Total Due with Application	\$304.00		
Appraiser Trainee Approval Number:			
DO NOT WRITE ABOVE THIS LINE MAKE CHECKS OR MONEY ORDERS PAYABLE TO: TALCB ALL INFORMATION MUST BE PRINTED IN INK. INCOMPLETE FORMS WILL NOT BE ACCEPTED.			

Fee includes optional \$4.00 fee for a two-year subscription to the TREC Advisor/TALCB Bulletin newsletter.

An answer must be provided for all questions. If the answer is "none" or "not applicable," please note this on the appropriate line.

The Board may decline to accept this application unless all requested information is provided and the proper fees are enclosed. Payment must be a single remittance payable to the **Texas Appraiser Licensing and Certification Board** and is NOT refundable once the application has been accepted for filing by the Board.

PART I—Personal Information

1. Full Legal Name: _____
(Last) (First) (Middle)

2. Social Security Number: _____ 3. Drivers License or State ID No.: _____
(State)

4. Date of Birth: _____ 5. Gender: Male Female
(mm/dd/yyyy)

6. Ethnic Group: Black/African American White Hispanic Asian
 Other (specify): _____
 Decline to respond (default answer)

7. Applicant's Permanent Mailing Address and Contact Information:

Street Address **OR** P.O. Box No. _____ Apt. or Suite _____

City _____ State _____ Zip Code _____

Telephone No. _____ Alternate/Cell Telephone No. _____

Fax No. _____ Email Address _____

8. Applicant's Business Address (must be sponsor's physical location):

Street Address _____ Apt. or Suite _____

City _____ State _____ Zip Code _____ Telephone No. _____

This document is available on the TALCB website at www.talcb.texas.gov

9. Applicant's Home Address:

Street Address **OR** P.O. Box No. Apt. or Suite

City State Zip Code

10. List below all names (maiden, aliases, nicknames, etc.) by which you have been known.

PART II—BACKGROUND INFORMATION

Answer these questions FULLY. Attach additional sheets and any appropriate supporting data to enable us to evaluate your application.

11. Provide the information indicated concerning each "professional or occupational license" that you currently hold, have held in the past five years, or for which you are currently applying. As used herein, a "professional license" is any state or federal license, permit, registration, or certification that is required to engage in a regulated business or activity.

License Type	License No.	Jurisdiction	Issue Date	Expiration or Termination Date	Status	Comments
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

12. Have you ever had any professional or occupational license or certification suspended, canceled or revoked; received a reprimand or disciplinary action; surrendered a license or certification pending disciplinary action; or had an application for such denied in Texas or in any other state? Yes No
If "YES" please attach a complete written explanation and appropriate documentation such as final orders, etc.
13. Are any complaints, disciplinary hearings, or investigations pending against any professional or occupational licenses you hold? Yes No
If "YES" please attach a complete written explanation with copies of all orders, notices, disapprovals, investigative reports, and other documentation.
14. (a) Have you ever been convicted of a criminal offense? (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets.) Yes No
- (b) Have you ever been placed on probation, community supervision, or deferred adjudication? Yes No
- (c) Are there any criminal charges pending against you? Yes No
If the answer to (a), (b), or (c) is YES, submit copies of all indictments, information, judgments, order and charges, and a written explanation.
15. Have you ever had a civil judgment rendered against you, or are there any civil suits pending against you? Yes No
If "YES" attach a complete written explanation and copies of all petitions and judgments.

PART III—EDUCATION

Complete the current education requirements in AQB required "Core Curriculum" courses as follows:

Basic Appraisal Principles	30 Hours
Basic Appraisal Procedures	30 Hours
15-Hour National USPAP or Equivalent	15 Hours
TOTAL HOURS REQUIRED	75 Hours

A list of course providers can be found at the TALCB website. Attach photocopies of transcripts or course completion certificates with this application to satisfy the education requirements. Retain the original documents for your personal files. The documents that are submitted with this application will not be returned to the applicant.

NOTE: State law prohibits renewing a license after a licensee has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the licensee has entered into a repayment agreement with TG. YOU should contact the TG BEFORE filing this application if you have defaulted on a student loan. A renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan. The Texas Guaranteed Student Loan Corporation can be contacted at: Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100. Phone: 1-800-252-9743.

APPLICANT CERTIFICATION

I hereby certify that I am a citizen of the United States or a lawfully admitted alien, that I have been a legal resident of Texas for sixty days immediately preceding the filing of this application, and that I am eighteen years of age or older.

I further certify that I have fully read and understand this application [and sponsor's certification](#) and the information given herein is true, correct and complete by my signature below. If so requested by the Texas Appraiser Licensing and Certification Board (the Board), I will furnish all additional information or documentation as may be deemed necessary for the verification of the information given here. I acknowledge that this application may be disapproved for cause and that the appraiser trainee status that I may obtain may be revoked if I provide false or misleading information to the board. I will abide by the rules of the Board (22 TAC Chapters 153-157). I will not hold myself out as an appraiser trainee or perform any act as an appraiser trainee until an approval has been issued by the Board authorizing me as an appraiser trainee. I understand that I must work only under the sponsorship and active, personal, and diligent direction and supervision of my sponsoring certified real property appraiser or a properly designated authorized supervisor, each of whom shall sign all appraisal reports prepared under their supervision.

Applicant's Typed or Printed Name

Applicant's Signature

Date Signed

SPONSOR'S CERTIFICATION

I hereby agree to sponsor the above named person as an appraiser trainee. I have reviewed the application, and to the best of my knowledge the information is true, correct and complete. I have carefully investigated this person and in my opinion, the person is honest, trustworthy and a person of integrity. I will abide by the provisions of the Texas Appraiser Licensing and Certification Act (Texas Occupations Code, Chapter 1103) and the Rules of the Texas Appraiser Licensing and Certification Board (22 TAC Chapters 153-157), and I will not allow the applicant to act as an appraiser trainee for me until an authorization has been issued by the Board authorizing this person as an appraiser trainee under my sponsorship. If this applicant is granted appraiser trainee status, I agree to be responsible for the person's professional conduct and to have the trainee perform appraisals only under my active, personal and diligent direction and supervision (except when the trainee is working under a properly designated authorized supervisor). I agree to actively, personally and diligently supervise and direct the appraiser trainee and to sign the trainee's reports, until such time as I notify both the Board and the appraiser trainee, in writing, that our association has been terminated.

I further certify that I have not been subject to any disciplinary action that affected my legal eligibility to engage in appraisal practice in the last 3 years, and that I HAVE HAVE NOT **[check one]** been subject to any other disciplinary action during the last 3 years.

I understand that my certification may be revoked, or other disciplinary action taken, if I violate the TALCB Act or Rules.

By my signature below, I certify that I have fully read and understand this application and the information given herein is true, correct and complete:

Sponsor's full name printed: _____

TALCB Certification Number: _____ Expiration Date: _____

Signature of Sponsoring Certified Appraiser

Date Signed

PRIVACY NOTICE

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- (3) Under Section 559.004 of the Government Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.**



Texas Appraiser Licensing & Certification Board

P.O. Box 12188

Austin, Texas 78711-2188

www.talcb.texas.gov 512-936-3001

ADDITION OR TERMINATION OF APPRAISER TRAINEE SPONSORSHIP

FEES	RECEIPT NUMBER	AMOUNT	MONEY TYPE
ADDITION OR TERMINATION OF SPONSORSHIP		\$20.00	

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

Appraiser Trainee's Name: _____

Appraiser Trainee's Authorization Number: _____ Expiration Date: _____

ADDITION OF SPONSORSHIP *Note: Both signatures (sponsoring appraiser AND appraiser trainee) are required.*

SPONSOR'S CERTIFICATION

I hereby certify that I am currently a certified general or certified residential real property appraiser under the Texas Appraiser Licensing and Certification Act and am in good standing. I agree to sponsor the appraiser trainee named above on this form. I agree to be responsible to the public and to the TALCB for the professional actions of the appraiser trainee. I agree to allow the trainee to perform appraisals only under my active, personal, and diligent supervision and direction, and I shall sign the trainee's reports. I have carefully investigated this person and, in my opinion, the person is honest, trustworthy, and a person of integrity. I will not allow this person to act as an appraiser trainee for me until I have received the TALCB acknowledgement authorizing the person to do so.

I further certify that I have not been subject to any disciplinary action that affected my legal eligibility to engage in appraisal practice in the last 3 years, and that I HAVE HAVE NOT **[check one]** been subject to any other disciplinary action during the last 3 years.

Sponsoring Appraiser's Name: _____

Certification Number: _____ Expiration Date: _____

Sponsoring Appraiser's Signature: _____ Date: _____

TRAINEE'S CERTIFICATION

I acknowledge the above statement by the sponsoring appraiser. I understand that I may not perform appraisals under this sponsor until the TALCB has authorized me to do so.

Trainee's Signature: _____ Date: _____

TERMINATION OF SPONSORSHIP *Note: Only one signature (sponsoring appraiser OR appraiser trainee) is required.*

SPONSOR'S CERTIFICATION

My sponsorship of the appraiser trainee listed above is terminated, and I am no longer responsible for the individual's professional actions. I have notified the appraiser trainee of this fact in writing. I understand that I must notify the TALCB in writing within ten days of any termination of sponsorship of an appraiser trainee.

Sponsoring Appraiser's Name: _____

Certification Number: _____ Expiration Date: _____

Sponsoring Appraiser's Signature: _____ Date: _____

TRAINEE'S CERTIFICATION

My sponsorship with the sponsoring appraiser listed above is terminated. I have notified the sponsor of this fact in writing. I understand that I may not perform appraisals until the TALCB has authorized me to work under a sponsoring appraiser.

Trainee's Signature: _____ Date: _____

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- (3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.**

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ADDITION OR TERMINATION OF APPRAISER TRAINEE SPONSORSHIP

Table with 4 columns: REQUIRED FEE, AMOUNT, REGISTER NUMBER, DATE RECEIVED. Includes instructions: DO NOT WRITE ABOVE THIS LINE, MAKE CHECKS OR MONEY ORDERS PAYABLE TO: TALCB, ALL INFORMATION MUST BE PRINTED IN INK. INCOMPLETE FORMS WILL NOT BE ACCEPTED.

ADDITION OF SPONSORSHIP

I hereby certify that I am currently a certified general or certified residential real property appraiser under the Texas Appraiser Licensing and Certification Act and am in good standing. I agree to sponsor the appraiser trainee named below on this form...

Sponsoring appraiser's name (typed or printed):

Certification Number: Expiration Date: E-mail:

Sponsoring appraiser's signature: Date:

TERMINATION OF SPONSORSHIP

My sponsorship of the appraiser trainee listed below of this form is terminated, and I am no longer responsible for the individual's professional actions. I have notified the appraiser trainee of this fact in writing.

Sponsoring appraiser's name (typed or printed):

Certification Number: Expiration Date:

Sponsoring appraiser's signature: Date:

STATEMENT BY APRAISER TRAINEE (for either sponsor addition or termination):

I acknowledge the above statement by the sponsoring certified appraiser. I understand that I may not perform appraisals until the TALCB has authorized me to work under a sponsoring certified appraiser.

Appraiser Trainee's Name (typed or printed):

Appraiser Trainee Authorization Number: Expiration Date:

New Business Street Address (must be the same address as sponsor)

City, State, zip:

New Business P.O. Box Address (if applicable):

City, State, zip:

Appraiser Trainee's signature: Date:

Phone number: E-mail:

Note: For termination of sponsorship, only one signature (sponsoring certified appraiser OR appraiser trainee) is required.

This document is available on the TALCB website at www.talcb.texas.gov

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AGENDA ITEM 28

Discussion and possible action to approve a new paper form for an AMC to add or terminate an appraiser on the AMC's panel.

SUMMARY

The new Addition/Termination of AMC Panel Appraiser form was created to allow appraisers and AMCs who cannot complete the process online to complete the process on paper and includes the \$20.00 paper filing fee.

STAFF RECOMMENDATION

Approve the revised forms as presented.

RECOMMENDED MOTION

MOVED, that the Board approve the use of the new Addition/Termination of AMC Panel Appraiser form as presented.



Texas Appraiser Licensing & Certification Board

P.O. Box 12188

Austin, Texas 78711-2188

www.talcb.texas.gov 512-936-3001

ADDITION OR TERMINATION OF APPRAISER ON APPRAISAL MANAGEMENT COMPANY (AMC) PANEL

Table with 4 columns: FEES, RECEIPT NUMBER, AMOUNT, MONEY TYPE. Row 1: ADDITION OR TERMINATION OF PANELIST, \$30.30

DO NOT WRITE ABOVE THIS LINE

NOTE: ALL INFORMATION MUST BE TYPED OR PRINTED IN INK

A separate form and fee must be submitted for each panelist added or terminated. Payment must be a single remittance payable to the Texas Appraiser Licensing and Certification Board and is NOT refundable once the application has been accepted for filing by the Board.

APPRAISAL MANAGEMENT COMPANY

Name _____ TALCB Registration Number _____

APPRAISER (PANELIST)

Name _____ TALCB Certification/License Number _____ Exp. Date _____

[] ADDITION OF PANELIST

We hereby request that the appraiser (panelist) named above be added to this AMC's panel.

[] TERMINATION OF PANELIST

I certify that I have notified the other party of the termination.

Both signatures are required to add a panelist. Only one signature is required to terminate a panelist.

AMC Primary Contact (printed name): _____

Signature of AMC Primary Contact: _____ Date: _____

Signature of Panelist: _____ Date: _____

PRIVACY NOTICE

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- (2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.**
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AGENDA ITEM 29

Discussion regarding legislative matters.

AGENDA ITEM 30

Request for new business agenda items.

AGENDA ITEM 31

Discussion and possible action to schedule future meeting dates.

AGENDA ITEM 32

Adjourn.