

# TEXAS APPRAISER LICENSING & CERTIFICATION BOARD



## BOARD MEETING

NOVEMBER 21, 2014



*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, November 21, 2014, 9:00 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
3. Welcome new Board members and recognize outgoing Board members

### **PUBLIC COMMENTS**

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

### **EXECUTIVE SESSION**

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

### **CONSENT AGENDA**

6. Ratification of the official record of the August 15, 2014 Board meeting as approved for posting on the website by the Secretary of the Board
7. Approval of agreed final orders and surrenders in the matter of:
  - a. Audit #14-238 (Andrew Patrick Schumacher, TX-1340151-T)
  - b. Complaint #14-084, 14-091 & 14-124 (George Nicholas Paraskevas, TX-1322633-R)
  - c. Complaint #14-120 & 14-255 (Jeff Dunaway McGregor, Jr., TX-1321270-R)
  - d. Complaint #14-113 (Carolyn Marie Moody, TX-1324186-G)
  - e. Complaint #13-261 (Sandra Thieu Ho, TX-1334106-R)
  - f. Complaint #13-208 (Michael Kevin Morris, TX-1322073-R)
  - g. Complaint #14-023 (Billy James Williams, TX-1326207-G)
  - h. Complaint #13-299 (Ben Autry Campbell, TX-1325877-G)
  - i. Complaint #14-051 (James M. Milner, TX-1320687-R)



- j. Complaint #13-211 (Sinthalay Chanthanalay, TX-1360006-R)
- k. Complaint #13-329 (Ted Norman Lear, TX-1321121-G)
- l. Complaint #14-112 (Larry Milton Street, TX-1332076-R)
- m. Complaint #14-103 (Jill Davis Hoffman, TX-1337093-R)
- n. Complaint #14-108 (Robert Kyle Visser, TX-1333468-R)
- o. Complaint #13-187 (Joe J. Roberts, TX-1320506-G)
- p. Complaint #14-107 (Scott David Sherrill, TX-1320957-R)
- q. Complaint #14-117 (Richard Wade Coffin, TX-1321570-R)

### **MODIFICATIONS**

- 8. Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #13-305 (Lateef A. Akanji, TX-1335567-R)

### **CONTESTED CASES**

- 9. Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of:
  - a. SOAH Docket #329-14-3376.ALC (Victor Vincent Vaughan)
  - b. SOAH Docket #329-14-0562.ALC (Travis R. Cooper)

### **COMMITTEE REPORTS**

- 10. Report by AMC Advisory Committee
- 11. Report by Education Committee
- 12. Report by Enforcement Committee
- 13. Report by Executive 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



15. Report from the Commissioner regarding investigation of staff misconduct allegations

### **RULES FOR POSSIBLE ADOPTION**

16. Discussion and possible action to adopt amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:
- a. 22 TAC §153.1. Definitions
  - b. 22 TAC §153.5. Fees
17. Discussion and possible action to adopt amendments to 22 TAC §157.31, Investigative Conference
18. Discussion and possible action to adopt amendments to 22 TAC Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act:
- a. 22 TAC §159.1. Definitions
  - b. 22 TAC §159.3. Appraisal Management Company Advisory Committee
  - c. 22 TAC §159.4. Jurisdiction and Exemptions
  - d. 22 TAC §159.52. Fees
  - e. 22 TAC §159.101. Registration Requirements
  - f. 22 TAC §159.102. Eligibility for Registration; Ownership
  - g. 22 TAC §159.103. Applications
  - h. 22 TAC §159.104. Primary Contact; Appraiser Contact
  - i. 22 TAC §159.105. Denial of Registration
  - j. 22 TAC §159.107. Expiration
  - k. 22 TAC §159.108. Renewal
  - l. 22 TAC §159.109. Inactive Status
  - m. 22 TAC §159.154. Competency of Appraisers
  - n. 22 TAC §159.155. Periodic Review of Appraisals
  - o. 22 TAC §159.156. Business Records
  - p. 22 TAC §159.157. Compensation of Appraisers
  - q. 22 TAC §159.159. Disclosure of Registered Name and Registration Number
  - r. 22 TAC §159.161. Appraiser Panel
  - s. 22 TAC §159.162. Dispute Resolution
  - t. 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration
  - u. 22 TAC §159.204. Complaint Processing
19. Discussion and possible action to adopt repeal of 22 TAC §153.16. Provisional License

### **RULES FOR POSSIBLE PROPOSAL**

20. Discussion and possible action to propose amendments to 22 TAC, Chapter 153, Rules Relating to provisions of the Texas Appraiser Licensing and Certification Act:



- a. 22 TAC §153.9. Applications
- b. 22 TAC §153.21. Appraiser Trainees and Sponsors

### **RULE REVIEW**

21. Discussion and possible action to close the review of 22 TAC, Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

### **PENDING BUSINESS**

22. Discussion and possible action on recommendations from the Education Committee regarding implementing a program to allow Board approval of education courses, instructors and providers
23. Discussion and possible action on recommendations from the Enforcement Committee regarding proposed revisions to the Complaint Intake Form
24. Discussion and possible action on recommendations from the Executive Committee regarding
  - a. Consolidation of all policies related to Board orders
  - b. Revisions to the policy on Work Related to Property Tax Protests
  - c. Recognition and appreciation for Board member service
  - d. Appointment of a Board member as the contact person for proposed legislative changes
25. Discussion and possible action regarding 2015 proposed legislative changes

### **NEW BUSINESS**

26. Discussion and possible action regarding floor nominations to create a slate of officers
27. Discussion and possible action regarding proposal for conducting a survey of customary and reasonable fees

### **OTHER BUSINESS**

28. Request for potential future meeting agenda items
29. Discussion and possible action to schedule future meeting dates
30. 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 and 551.074.





**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 November 21, 2014 Board meeting is/are hereby excused.

**AGENDA ITEM 3**

Welcome new Board members and recognize outgoing Board members.

**AGENDA ITEM 4**

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



**AGENDA ITEM 5**

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 to obtain the advice of legal counsel or discuss pending or contemplated litigation, including settlement offers and enforcement actions, pursuant to Texas Government Code §551.071 and to discuss personnel matters pursuant to Texas Government Code §551.074. 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.





## CONSENT AGENDA

### AGENDA ITEM 6

Ratification of the official record of the August 15, 2014 Board meeting as approved for posting on the website by the Secretary of the Board.

#### **FOR REFERENCE:**

22 TAC §153.24. Complaint Processing.

### AGENDA ITEMS 7(a)-(q)

Approval of agreed final orders and surrenders in the matter of:

- a. Audit# 14-238 (Andrew Patrick Schumacher, TX-1340151-T)
- b. Complaint #14-084, 14-091 & 14-124 (George Nicholas Paraskevas, TX-1322633-R)
- c. Complaint #14-120 & 14-255 (Jeff Dunaway McGregor, Jr., TX-1321270-R)
- d. Complaint #14-113 (Carolyn Marie Moody, TX-1324186-G)
- e. Complaint #13-261 (Sandra Thieu Ho, TX-1334106-R)
- f. Complaint #13-208 (Michael Kevin Morris, TX-1322073-R)
- g. Complaint #14-023 (Billy James Williams, TX-1326207-G)
- h. Complaint #13-299 (Ben Autry Campbell, TX-1325877-G)
- i. Complaint #14-051 (James M. Milner, TX-1320687-R)
- j. Complaint #13-211 (Sinthalay Chanthanalay, TX-1360006-R)
- k. Complaint #13-329 (Ted Norman Lear, TX-1321121-G)
- l. Complaint #14-112 (Larry Milton Street, TX-1332076-R)
- m. Complaint #14-103 (Jill Davis Hoffman, TX-1337093-R)
- n. Complaint #14-108 (Robert Kyle Visser, TX-1333468-R)
- o. Complaint #13-187 (Joe J. Roberts, TX-1320506-G)
- p. Complaint #14-107 (Scott David Sherrill, TX-1320957-R)
- q. Complaint #14-117 (Richard Wade Coffin, TX-1321570-R)

#### **STAFF RECOMMENDATION**

Ratify and approve all items on the Consent Agenda as presented.

#### **RECOMMENDED MOTION**

MOVED, that the Board ratify and approve all items on the Consent Agenda as presented.



## **Minutes accompanying meeting video from August 15, 2014**

These minutes set out the agenda item and any action taken on each item. To hear the full discussion on any agenda item, click on the link, and you will be taken directly to that section of the meeting video. Note, while the written portion of the minutes below are published in agenda order, the Board may have taken items out of order.

The minutes are initially approved by the Board Secretary *for only publication on the website* and become the official record upon ratification by a majority of the Board at a future meeting.

[AGENDA ITEM 1](#) - Call to order and pledges of allegiance

[AGENDA ITEM 2](#) - Roll call and discussion and possible action to excuse Board member absences, if any

A roll call was conducted by the recording secretary and the following members of the Board, constituting a quorum, answered present: Chair, Ms. Jamie S. Wickliffe, Mr. Mark McAnally, Mr. Luis F. DeLaGarza, Mr. Walker Beard, Mr. Brian Padden, Mr. Clayton Black, and Mr. Jesse Barba.

ACTION TAKEN: Mr. DeLaGarza moved to excuse the absences of Ms. Laurie Fontana and Mr. Patrick Carlson. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 3](#) - Comments from members of the public regarding non-agenda items

No comments were offered.

[AGENDA ITEM 4](#) - Executive session to receive advice of counsel pursuant to Texas Government Code §551.071

ACTION TAKEN: The Chair called the Board into executive session at 10:06 am.

[The Chair reconvened the meeting at 10:51 am.](#)

[AGENDA ITEM 5](#) - Ratification of the official record of the May 9, 2014 and July 14, 2014 Board meetings as approved for posting on the website by the Secretary of the Board

[AGENDA ITEM 6](#) - Approval of agreed final orders and surrenders in the matter of:

- a. Audit# 13-105 (Brandon S. Simpson, TX-1340177-T)
- b. Complaint# 14-079 (Billy F. Jackson, TX-1320715-G)
- c. Complaint# 14-034 (Laura Ali, TX-1334276-R)

ACTION TAKEN: Items 5, 6a, and 6b were taken together as one item. Mr. Beard moved to

approve these enforcement matters. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

Mr. Beard moved to approve item 6c as corrected by staff. Mr. McNally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 7](#) - Discussion and possible action to approve request for modification of agreed order in the matter of Complaint# 13-126 (Muriel Pope, TX-1338570-G)

ACTION TAKEN: Mr. DeLaGarza moved that the request for modification be approved as amended by staff. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 8](#) - Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-14-2114.ALC (Robert Chandler Smith, TX-1337411-L)

ACTION TAKEN: Mr. McNally moved to accept the Proposal for Decision. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 9](#) - Discussion and possible action regarding compliance with agreed order in the matter of Complaint #13-099 (Abbie Gail Hawkins, TX-1338340-R)

[Comments were made by Mr. Mark Mrnak, TALCB Director of Standards & Enforcement Services](#)

[Comments were made by Ms. Abbie Hawkins, Respondent](#)

ACTION TAKEN: Mr. DeLaGarza moved to extend the compliance deadline and effective date of suspension for non-compliance to September 2, 2014 as recommended by staff. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 10](#) - Report by AMC Advisory Committee

[AGENDA ITEM 11](#) - Report by Budget Committee

[AGENDA ITEM 12](#) - Report by Education Committee

[AGENDA ITEM 13](#) - Report by Enforcement Committee

[Comments were made by Mr. Bobby Crisp, representing the Association of Texas Appraisers, regarding whether the TALCB enforcement staff should give counsel to Texas appraisers regarding USPAP questions](#)

[AGENDA ITEM 14](#) - Report by Executive Committee

[AGENDA ITEM 15](#) - Staff reports on processes, monthly activities, and statistical data

[Mr. Douglas Oldmixon, Commissioner](#)

[Ms. Lorie Deanda, Director of Reception & Communication Services](#)

[Ms. Gwen Jackson, Director of Education & Licensing Services](#)  
[Mr. Tom Watson, Director of Information & Technology Services](#)  
[Ms. Melissa Huerta, Director of Staff & Support Services](#)  
[Mr. Mark Mrnak, Director of Standards & Enforcement Services](#)

[AGENDA ITEM 16](#) - Discussion and possible action regarding report from state auditor

No action was taken.

[AGENDA ITEM 17](#) - Discussion and possible action to adopt amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:

- a. 22 TAC §153.3. The Board
- b. 22 TAC §153.5. Fees
- c. 22 TAC §153.8. Scope of Practice
- d. 22 TAC §153.9. Applications
- e. 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
- f. 22 TAC §153.11. Examinations
- g. 22 TAC §153.13. Educational Requirements
- h. 22 TAC §153.15. Experience Required for Certification or Licensing
- i. 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval
- j. 22 TAC §153.18. Appraiser Continuing Education (ACE)
- k. 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories
- l. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
- m. 22 TAC §153.21. Appraiser Trainees and Sponsors
- n. 22 TAC §153.23. Inactive Status
- o. 22 TAC §153.24. Complaint Processing
- p. 22 TAC §153.25. Temporary Out-of-State Appraiser Registration
- q. 22 TAC §153.26. Identity Theft
- r. 22 TAC §153.27. Certification and Licensure by Reciprocity
- s. 22 TAC §153.33. Signature or Endorsement of Appraisal
- t. 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

ACTION TAKEN: Mr. McAnally moved for the adoption of the rule as published. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 18a](#) - Discussion and possible action to propose amendments to 22 TAC §153.1, Definitions

ACTION TAKEN: Mr. McAnally moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 18b](#) - Discussion and possible action to propose amendments to 22 TAC §153.5, Fees

ACTION TAKEN: Mr. DeLaGarza moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19](#) - Discussion and possible action to propose amendments to 22 TAC §157.31, Investigative Conference

[Comments were made by Mr. Mark Loftus, representing Appraisal Practice Consultation, regarding the depth of the information provided to respondents prior to an investigative conference](#)

ACTION TAKEN: Mr. Beard moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 20](#) - Discussion and possible action to propose amendments to 22 TAC Chapter 159, Rules Relating to Provisions of the Texas Appraisal Management Company Registration and Regulation:

- a. 22 TAC §159.1. Definitions
- b. 22 TAC §159.3. Appraisal Management Company Advisory Committee
- c. 22 TAC §159.4. Jurisdiction and Exemptions
- d. 22 TAC §159.52. Fees
- e. 22 TAC §159.101. Registration Requirements
- f. 22 TAC §159.102. Eligibility for Registration; Ownership
- g. 22 TAC §159.103. Applications
- h. 22 TAC §159.104. Primary Contact; Appraiser Contact
- i. 22 TAC §159.105. Denial of Registration
- j. 22 TAC §159.107. Expiration
- k. 22 TAC §159.108. Renewal
- l. 22 TAC §159.109. Inactive Status
- m. 22 TAC §159.154. Competency of Appraisers
- n. 22 TAC §159.155. Periodic Review of Appraisals
- o. 22 TAC §159.156. Business Records
- p. 22 TAC §159.157. Compensation of Appraisers
- q. 22 TAC §159.159. Disclosure of Registered Name and Registration Number
- r. 22 TAC §159.161. Appraiser Panel
- s. 22 TAC §159.162. Dispute Resolution
- t. 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration
- u. 22 TAC §159.204. Complaint Processing

[Comments were made by Mr. Mark Loftus, representing Appraisal Practice Consultation, regarding the proposed reduction in the percentage of reviews that an AMC must perform](#)

ACTION TAKEN: Mr. DeLaGarza moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 21](#) - Discussion and possible action to close the review of 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

ACTION TAKEN: Mr. McAnally moved that the rule review of 22 TAC Chapter 153 be closed. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

The Chair called for a break at 12:48 pm.

[The Chair reconvened the meeting at 12:59 pm.](#)

[AGENDA ITEM 22](#) - Discussion and possible action regarding the Agency's Strategic Plan for FY2015-2019

ACTION TAKEN: Mr. DeLaGarza moved to approve the Strategic Plan for publication as presented. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 23](#) - Discussion and possible action on recommendations from the Budget Committee regarding FY2015 budget for the Board

ACTION TAKEN: Mr. McAnally moved to adopt the FY2015 budget for the Board with a \$1500 increase for travel. Mr. DeLaGarza seconded the motion, and the Board approved the motion unanimously.

Mr. McAnally moved that Mr. Padden be appointed to participate in a joint working group with the Texas Real Estate Commission to explore the possibility of constructing an office building. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 24a](#) - Discussion and possible action on recommendations from the Education Committee regarding possible amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors

ACTION TAKEN: Mr. DeLaGarza moved that the Board endorse this item to be further vetted by the Education Committee. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 24b](#) - Discussion and possible action on recommendations from the Education Committee regarding development of a voluntary appraiser trainee experience review program  
[Comments were made by Mr. Mark Loftus, representing Appraisal Practice Consultation, regarding reasons to oppose the implementation of such a program](#)

ACTION TAKEN: Mr. DeLaGarza moved to refer this item to the Education and Enforcement Committees for further development. The Board approved the motion unanimously.

[AGENDA ITEM 24c](#) - Discussion and possible action on recommendations from the Education Committee regarding pursuit of a statutory change to allow ACE credit to be given for attending presentations by Board members or staff

ACTION TAKEN: Mr. DeLaGarza moved that the Board endorse this item to be further vetted by the Education Committee. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 24d](#) - Discussion and possible action on recommendations from the Education Committee regarding development of a process for license holders to receive 2-4 hours of ACE credit for attending a full meeting of the Board in compliance with AQB criteria

ACTION TAKEN: Mr. DeLaGarza moved to refer this item to the Education Committee for further development and recommendation. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 25a](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding notice provided to respondents who request a copy of investigative reports

ACTION TAKEN: Mr. McAnally moved to adopt the policy with changes to the notice as presented. Mr. DeLaGarza seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 25b](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding development of a rule for alternate experience requirements for previously licensed applicants

ACTION TAKEN: Mr. Barba moved that the Board endorse this item to be further developed by the Enforcement Committee. Mr. DeLaGarza seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 26a](#) - Discussion and possible action on recommendations from the Executive Committee regarding topics for November training workshop

No action was taken.

[AGENDA ITEM 26b](#) - Discussion and possible action on recommendations from the Executive Committee regarding a policy for 2-year staggered appointments as PIC Members and Mentors

ACTION TAKEN: Mr. Beard moved to adopt a policy to change appointments for PIC Members to 2 years starting in 2016. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 27](#) - Status update regarding investigation into allegations of staff misconduct

[AGENDA ITEM 28](#) - Discussion and possible action regarding consideration and adoption of a policy interpretation on licensure requirements

[Comments were made by Greg Stephens, representing Metro West Appraisal, to provide clarification on industry review guidelines at the request of the Board](#)

ACTION TAKEN: Mr. McAnally moved to adopt the new draft policy interpretation with changes as presented. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

Mr. McAnally moved to amend the 2006 advisory opinion as presented. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 29](#) - Request for potential future meeting agenda items

At the request of the public, Ms. Wickliffe asked that the policy regarding receipt of ACE credit for USPAP only when taken during the appraiser's renewal cycle be reviewed by the Education Committee for future consideration by the Board.

[AGENDA ITEM 30](#) - Discussion and possible action to schedule future meeting dates

Future meeting dates were confirmed for November 20, 2014 (Board training), November 21, 2014, and February 20, 2015.

[AGENDA ITEM 31](#) - The Chair adjourned the meeting at 3:04 pm.



## FOR REFERENCE

### §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. Upon receipt of a signed Complaint Intake Form, staff shall:

(1) assign the complaint a case number in the complaint tracking system; and

(2) send written acknowledgement of receipt to the Complainant.

(b) 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 be dismissed with no further processing. The Board or the commissioner may delegate to staff the duty to dismiss complaints.

(c) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) may be investigated covertly; and

(2) shall be referred to the appropriate prosecutorial authorities.

(d) Staff may request additional information from any person, if necessary, to determine how to proceed with the complaint.

(e) As part of a preliminary investigative review, a copy of the Complaint Intake Form 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) The Respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. 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;

(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;

(5) any documentation that supports Respondent's position that was not in the work file, as long as it is conspicuously labeled as non-work file documentation and kept separate from the work file. The Respondent may also address other matters not raised in the complaint that the Respondent believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by Board staff.

(g) Staff will evaluate the complaint within three months after receipt of the response from Respondent to determine whether sufficient evidence of a potential violation of the Act, Board rules, or the USPAP exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (k) of this section, the complaint shall be dismissed with no further processing.

(h) A formal complaint will be opened and investigated by a staff investigator or peer investigative committee, as appropriate, if:

## FOR REFERENCE

(1) the informal complaint is not dismissed under subsection (g) of this section; or

(2) staff opens a formal complaint on its own motion.

(i) Written notice that a formal complaint has been opened will be sent to the Complainant and Respondent.

(j) 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. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division.

(k) 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 Texas Occupations 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.

(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 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 license holder's honesty, integrity, or trustworthiness to the Board, the license holder'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 license holder's honesty, trustworthiness or integrity to the Board, the license holder's clients, or intended users of the appraisal service provided;

(G) "Remedial measures" include, but are not limited to, training, mentorship, education, reexamination, or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If the Respondent completes all remedial measures required in the agreement within the 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 prior discipline, including:

(i) Whether prior discipline concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions previously imposed; and

## FOR REFERENCE

(iii)The length of time since the prior 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; or

(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 extent or 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 following sanctions guidelines 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; or

(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; or

(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 Respondent's practice;

(IV)Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(V)Restrictions on the scope of practice the Respondent is allowed to engage in for a

## FOR REFERENCE

specified time period or until specified conditions are satisfied; or

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, not to exceed \$3,000 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 Respondent's practice;

(vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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; or

(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 Respondent's practice;

(IV) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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 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 Respondent's practice;

(vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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

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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 Respondent's practice;
  - (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
  - (vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or
  - (viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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 Respondent's practice;
  - (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
  - (vii) Restrictions on the scope of practice the Respondent's is allowed to engage in for a specified time period or until specified conditions are satisfied; or
  - (viii) \$1,000 to \$1,500 in administrative penalties per act or omission which

constitutes a violation(s) of the Act, Board rules, or USPAP, 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 Respondent's practice;
- (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
- (vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or
- (viii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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; or
- (ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, 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

**FOR REFERENCE**

(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, Board rules, or USPAP.

(l) Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1103.458 or §1103.459 must be signed by the Respondent, a representative of the Standards and Enforcement Services Division, and the Commissioner.

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

APPLICATION 14-238

ANDREW PATRICK SCHUMACHER  
TX-1340151-T

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the application for state license of Andrew Patrick Schumacher (the "Applicant").

In order to conclude this matter, the Applicant neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the 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. Applicant is an authorized appraiser trainee in Texas who holds authorization number TX-1340151-T and was authorized by the Board during all times material to the above-noted application.
2. Applicant appraised a residential property located at 6610 Emerald Ash, Humble, Texas (the "Humble Property") on or about February 25<sup>th</sup>, 2013 and a residential property located at 11420 Elegant Way, Houston, Texas (the "Houston Property") on September 19<sup>th</sup>, 2013 (collectively, the "Properties")
3. On or about April 10<sup>th</sup>, 2014, Applicant filed an application for state license with the Board.
4. On or about June 18<sup>th</sup>, 2014, Applicant was selected for audit in accordance with state and federal legal requirements. Applicant's appraisals of the Properties were reviewed during the audit.
5. Upon review of Applicant's experience, concerns regarding whether his experience was performed in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP") were evaluated. Concerns regarding whether his experience was performed in conformity with 22 TEX. ADMIN. CODE § 153.15 were also evaluated.
6. Applicant's application was denied by letter dated August 14<sup>th</sup>, 2014.
7. The denial of Applicant's application was based upon violations of TEX. OCC. CODE §§ 1103.202, 1103.205, 1103.405 and 22 TEX. ADMIN. CODE §§ 153.15(e) and (g) and 153.20(a)(6) and 155.1(a), which all relate to USPAP deficiencies in his submitted experience.

8. The parties have reached agreement on resolution of his application denial matter. The parties agree that Applicant shall be issued a probationary state license under the terms and conditions outlined in this order. This order shall fully resolve the application matter by means of this order in accordance with TEX. OCC. CODE § 1103.458.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.

2. 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. **PROBATIONARY LICENSE.** Applicant shall be issued a state license on a probationary basis as prescribed by TEX. OCC. CODE § 1103.2091 and 22 TEX. ADMIN. CODE § 153.20(k)-(m), under the conditions outlined in this order. The probationary period shall remain in effect for the first six (6) month period Applicant is licensed, after which, Applicant may be issued a non-probationary state license as a real estate appraiser, upon timely completion of all terms of this order;
2. **LOGS.** On or before March 30<sup>th</sup>, 2015, Applicant shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of February 20<sup>th</sup>, 2015 to March 20<sup>th</sup>, 2015. The log shall detail *all* real estate appraisal activities Applicant has conducted during that 30-day period. This log shall be signed by Applicant and contain a notarized affidavit attesting the log is true, complete and accurate. Upon request from the Board, Applicant shall provide copies of his appraisal reports and work files for any appraisal assignments Applicant performs during the course of this period within twenty days of receiving any such request. Staff shall then audit a sample of no more than 2 new reports and corresponding work files from this experience log. Applicant's audited work product must meet general USPAP compliance in order to satisfy the audit. In the event Applicant's work product does not generally conform to USPAP, Applicant's Probationary License will be denied and Applicant will not be issued a license.
3. **DISCLOSURE OF PROBATIONARY STATUS REQUIRED.** Applicant shall comply with the requirements of TEX. OCC. CODE § 1103.2091 regarding disclosure of his probationary status to all clients before accepting an assignment.
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.

## **ACKNOWLEDGMENT AND WAIVER**

Applicant, by signing this Agreed Final Order, waives the Applicant'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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Applicant 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" and delivered via certified mail, return receipt requested. Applicant shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Applicant shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

## **EXECUTION**

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.

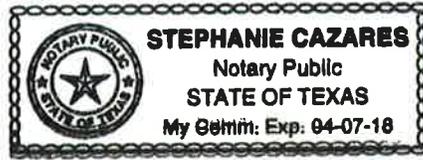
**APPLICANT**

Signed this 29 day of August, 2014.

[Signature]  
ANDREW PATRICK SCHUMACHER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 29 day of August, 2014, by ANDREW PATRICK SCHUMACHER, to certify which, witness my hand and official seal.

[Signature]  
Notary Public Signature  
Stephanie Cazares.  
Notary Public's Printed Name



**BOARD STAFF ATTORNEY**

Signed by the Standards and Enforcement Services Division this 2nd day of SEPTEMBER, 2014.

[Signature]  
Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**BOARD COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**BOARD CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

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

vs.

DOCKETED COMPLAINT NO.  
14-084, 14-091, and 14-124

George Nicholas Paraskevas  
TX-1322633-R

**AGREED FINAL ORDER**

On the 9 day of October, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of George Nicholas Paraskevas (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1322633-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at: (1) 310 County Road 1910, Gregory, Texas 78359 (the "310 Property"), on or about August 23, 2013, (2) 2237 Tarlton Street, Corpus Christi, Texas 78416 (the "Tarlton Property"), on or about September 16, 2013, and (3) 231 Bent Grass Drive, Port Aransas, Texas 78373 (the "Bent Grass Property"), on or about October 24, 2013. Collectively, the 310 Property, the Tarlton Property, and the Bent Grass Property shall be known as the Properties.
3. Thereafter, a complaint regarding the Respondent's appraisal of the 310 Property, numbered 14-084, was filed with the Board by Fred Garcia, on or about December 4, 2013. A complaint regarding the Respondent's appraisal of the Tarlton Property, numbered 14-091, was filed with the Board by Rels Valuation, on or about December 16, 2013. A complaint regarding the Respondent's appraisal of the Bent Grass Property, numbered 14-124, was filed with the Board by Rels Valuation, on or about February 6, 2013. The Board investigated the complaints to ensure compliance with 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. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (APA), and the Act, notified Respondent of complaint 14-084, on or about December 13, 2013, complaint 14-091, on or about December 30,

2013, and complaint 14-124, on or about February 2, 2013. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation to complaint 14-084, on or about December 20, 2013, complaint 14-091, January 17, 2013, and complaint 14-124, on or about March 3, 2014.

5. As a result of the Board's investigation, the Board contends that 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 Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- b. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- c. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the improvements;
- d. USPAP Standards Rules 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to identify and report the Property's zoning;
- e. USPAP Standards Rules 1-2(e)(iv) and 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;
- f. USPAP Standards Rules 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the opinion of highest and best use;
- g. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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; 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; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
- h. USPAP Standards Rules 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 the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made

inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;

- i. USPAP Standards Rules 1-5(a) and 2-2(b)(viii) – Respondent failed to disclose and analyze information regarding the property’s current listing;
  - j. USPAP Standards Rules 1-5(a) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject within three (3) years prior to the effective date of the appraisal;
  - k. USPAP Standards Rules 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 the applicability or suitability of the approaches;
  - l. USPAP Standards Rules 1-2(e) and 2-2(b)(viii) – Respondent failed to retain plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements; and
  - m. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Properties as detailed above.
7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **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 violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material 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 real estate appraiser certification (TX-1322633-R) is hereby suspended for eighteen (18) months, beginning on November 21, 2014, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 21, 2015.
  
2. **MENTORSHIP.** On or before November 21, 2015, 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 regarding USPAP, on or before November 21, 2015.
  - b. Four (4) hours of mentorship regarding the sales comparison approach, on or before November 21, 2015.
  - c. Four (4) hours of mentorship regarding the cost approach, on or before November 21, 2015.
  - d. Four (4) hours of mentorship regarding report writing, on or before November 21, 2015.

3. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of five thousand dollars (\$5,000), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
4. **EXAMINATION.** On or before November 21, 2015, Respondent shall submit to a reexamination for his certified residential, receive a passing grade on such reexamination and submit satisfactory evidence of successfully passing the reexamination.
5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this Agreed Final Order, which has a specific, stated due date shall result in the automatic revocation of probation and the suspension imposed in this Agreed Final Order shall be effective for the full term commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any terms in this Agreed Final Order, which has a specific, stated due date, the Respondent shall be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its Staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final

Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

**DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

**EXECUTION**

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.

**RESPONDENT**

Signed this 9 day of October, 2014.



George Nicholas Paraskevas  
George Nicholas Paraskevas

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 9<sup>th</sup> day of October, 2014, by George Nicholas Paraskevas, to certify which witness my hand and official seal.

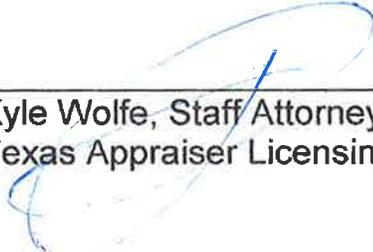
Carolyn J. Botello  
Notary Public's Signature

Carolyn J. Botello  
Notary Public's Printed Name

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**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 10th day of October, 2014.

  
\_\_\_\_\_  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JEFF DUNAWAY MCGREGOR JR.  
TX-1321270-R

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DOCKETED COMPLAINT NO.  
14-120 and 14-255

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Jeff Dunaway McGregor Jr. (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1321270-R and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised residential real property located at 910 Hillside Drive, Richardson, Texas 75081 (the "Hillside Property"), on or about December 20, 2013, and 3719 Glenside Court, Sachse, Texas 75048 (the "Glenside Property"), on or about April 4, 2014. The Hillside Property and Glenside Property may be referred to collectively as the "Properties."
3. Hereafter, the complaint, numbered 14-120, concerning the appraisal of the Hillside property was filed with the Board by Rafael Valdivia, on or about January 29, 2014. The complaint, numbered 14-255, concerning the appraisal of the Glenside Property was filed with the Board by Joseph Kuzner, on or about June 26, 2014. The Board investigated the complaints to ensure compliance with 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. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations concerning the appraisal of the Hillside property on or about February 11, 2014 and the appraisal of the Glenside property on or about July 8, 2014.

Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation regarding the Hillside property on or about March 20, 2014 and the Glenside property on or about July 23, 2014.

5. As a result of the Board's investigation, the Board contends that 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 appraisals of the Properties:

- a. USPAP ETHICS RULE – Respondent knowingly communicated an appraisal report that was misleading;
- b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- c. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(n) and 2-2(d)(VIII) – Respondent failed to perform the scope of work necessary for credible assignment results;
- d. USPAP Standards Rules 1-2(e)(i) and 2-2(d)(iii) – Respondent failed to adequately identify and report the improvements;
- e. USPAP Standards Rules 1-3(a) and 2-2(d)(VIII); 1-1(d) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
- f. USPAP Standards Rules 1-2(e)(iv) and 2-2(d)(VIII) – Respondent failed to identify and report the Property's zoning;
- g. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) and 2-2(d)(VIII); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new or improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- n. USPAP Standards Rules 1-4(a) and 2-2(d)(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 the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;

- I. USPAP Standards Rules 1-5(a) and 2-2(d)(VIII) – Respondent failed to disclose and analyze information regarding the property's agreement of sale;
  - J. USPAP Standards Rules 1-6(a), 1-6(b), and 2-2(d)(VIII) – Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;
  - K. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible; and
  - L. USPAP Standards Rule 2-1(a) – The appraisal report submitted to the Board for the Glenside Property did not include a signed certification.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Properties as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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-13212/U-K) is hereby suspended for twenty-four (24) months, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 on USPAP, a minimum of fifteen (15) class hours, on or before November 21, 2015.

d. A classroom course on residential case studies, a minimum of fifteen (15) class hours, on or before November 21, 2015.

2. **MENTORSHIP.** On or before November 21, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

a. Two (2) hours of mentorship concerning USPAP and the Ethics Rule, on or before November 21, 2015.

b. Two (2) hours of mentorship concerning the sales comparison approach, on or before November 21, 2015.

c. Two (2) hours of mentorship concerning the cost approach, on or before November 21, 2015.

d. Two (2) hours of mentorship concerning report writing, on or before November 21, 2015.

3. **REPORTS.** On or before December 1, 2015, upon completion of the mentorship, Respondent shall submit to the Board four separate one (1) page written reports summarizing each of the above topics covered in the in-person mentorship.

4. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of two thousand five hundred dollars (\$2,500.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

5. **TRAINEES.** Respondent shall not sponsor any trainees for twenty-four (24) months, from November 21, 2014 to November 21, 2016.
6. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
7. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this Agreed Final Order, which has a specific, stated due date shall result in the automatic revocation of probation and the suspension imposed in this Agreed Final Order shall be effective for the full term commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any terms in this Agreed Final Order, which has a specific, stated due date, the Respondent shall be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

**DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

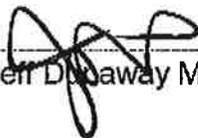
**EXECUTION**

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.

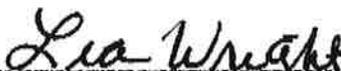
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

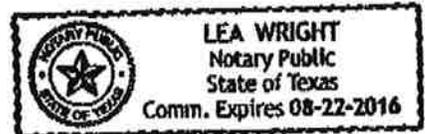
Signed this 10 day of October, 2014.

  
\_\_\_\_\_  
Jeff Dunaway McGregor Jr.

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 10th day of October, 2014, by Jeff Dunaway McGregor Jr., to certify which witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public's Signature

LEA WRIGHT  
\_\_\_\_\_  
Notary Public's Printed Name



**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 10th day of October, 2014.



Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-113

CAROLYN MARIE MOODY  
TX-1324186-G

**AGREED FINAL ORDER**

On the 5 day of AUGUST, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Carolyn Marie Moody (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified general real estate appraiser who holds certification TX-1324186-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 699 County Road 4510, Winnsboro, Texas (the "Property"), on or about July 12, 2013.
3. Thereafter, the complaint, numbered 14-113, was filed with the Board by Brandon Rogers, on or about February 2, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about February 5, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about March 19, 2014.
5. As a result of the Board's investigation, the Board contends that 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 performed the assignment in a grossly negligent manner;
- b. USPAP Record Keeping Rule – Respondent failed to maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- c. USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- d. USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the improvements;
- e. USPAP Standards 1-2(e)(iii), 1-4(g), and 2-2(b)(viii) – Respondent failed to adequately identify and consider the effect on value of any personal property;
- f. USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to adequately identify the Property’s zoning;
- g. USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to support the opinions and conclusions in the “Neighborhood” section of the appraisal report;
- h. USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop the opinion of highest and best use in the appraisal;
- i. USPAP Standards 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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; 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 has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
- k. USPAP Standards 2-2(b)(v)(iii) – Respondent failed to explain and support the exclusion of the income approach;
- l. 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 failed to reconcile the applicability or suitability of the approaches used; 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 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.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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**

1. **REPRIMAND.** Respondent is hereby reprimanded for the above-noted violations.
2. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

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.

**RESPONDENT**

Signed this 5 day of August, 2014.

Carolyn Marie Moody  
Carolyn Marie Moody

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 5 day of August, 2014, by Carolyn Marie Moody, to certify which witness my hand and official seal.



[Signature]  
Notary Public's Signature

Forrest Logston  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 5th day of August, 2014.

[Signature]  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board





- a. USPAP Ethics Rule – Respondent knowingly violated the Record Keeping Rule;
  - b. USPAP Record Keeping Rule – Respondent's workfile does not contain the data necessary to support the opinions and conclusions in the appraisal;
  - c. USPAP Scope of Work Rule, USPAP Standards 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the Scope of Work necessary to develop credible assignment rules;
  - d. USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the improvements;
  - e. USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze the effect on use and of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;
  - f. USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to develop the opinion of highest and best use in the appraisal;
  - g. USPAP Standards 2-2(b)(v)(iii) – Respondent failed to explain and support the exclusion of the cost approach;
  - h. USPAP Standards 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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;
  - i. 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 the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made; and
  - j. USPAP Standards 1-1(a), 1-1(b), 2-1(a), and 2-1(b) – 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.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## 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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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-1334106-R) is hereby suspended for twelve (12) months, with this suspension being fully probated under the following terms and conditions:

1. **MENTORSHIP.** On or before November 21, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 November 21, 2015.
2. **REPORT.** On or before November 21, 2015, upon completion of the mentorship, Respondent shall submit to the Board a written report with a paragraph for each topic covered in the in-person mentorship.
3. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 21, 2015.

b. A classroom course on the sales comparison approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.

4. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

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

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

#### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this Agreed Final Order, which has a specific, stated due date shall result in the automatic revocation of probation and the suspension imposed in this Agreed Final Order shall be effective for the full term commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any terms in this Agreed Final Order, which has a specific, stated due date, the Respondent shall be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

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.

**RESPONDENT**

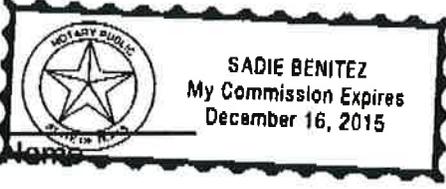
Signed this 11<sup>th</sup> day of August, 2014.

Sandra Thieu Ho  
Sandra Thieu Ho

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 12<sup>th</sup> day of August, 2014, by Sandra Thieu Ho, to certify which witness my hand and official seal.

Sadie Benitez  
Notary Public's Signature

SADIE BENITEZ  
Notary Public's Printed Name



**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 12<sup>th</sup> day of AUGUST, 2014.

Kyle Wolfe  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
13-208

Michael Kevin Morris  
TX-1322073-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Michael Kevin Morris (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1322073-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 1830 Cotton Creek Trail, Midlothian, Texas 76065 (the "Property") on or about May 2, 2013.
3. Thereafter, the complaint, numbered 13-208, was filed with the Board by Eric Walker, on or about April 29, 2013. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (APA), and the Act, notified Respondent of the nature of the accusations involved, on or about May 3, 2013. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about May 24, 2013.
5. As a result of the Board's investigation, the Board contends that 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 Property:

- a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- b. USPAP Scope of Work Rule, USPAP Standards Rule 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- c. USPAP Standards Rule 1-2(f), 2-1(c), and 2-2(b)(x) – Respondent failed to identify and report extraordinary assumptions;
- d. USPAP Standards Rule 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- e. USPAP Standards Rule 1-4(f) and 2-2(b)(viii) – Respondent failed to report public and private improvements off site;
- f. USPAP Standards Rule 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to consider and report restrictions on the property;
- g. USPAP Standards Rule 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze the effect on use and of existing land use regulations;
- h. USPAP Standards Rule 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the opinion of highest and best use;
- i. USPAP Standards Rule 1-4(b)(i), 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 develop a site value determination; 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 Rule 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 the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
- k. USPAP Standards Rule 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 the applicability or suitability of the approaches;

- l. USPAP Standards Rule 2-1(a) – Respondent made incorrect certifications; and
  - m. USPAP Standards Rule 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
  7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### 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 violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material 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. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before November 21, 2015, Respondent shall promulgate, adopt, and implement written, preventative policies and procedures addressing each of the above-noted deficiencies in his professional appraisal practice. Respondent shall submit the written, preventative policies and procedures to the Board, on or before November 21, 2015.
2. **MENTORSHIP.** On or before November 21, 2015, 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely**

**satisfy this Agreed Final 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 regarding the above-noted violations, on or before November 21, 2015.
3. **REPORT.** On or before November 21, 2015, upon completion of the mentorship, Respondent shall submit to the Board a written two (2) page report regarding the topics covered in the in-person mentorship.
4. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 on USPAP, a minimum of fifteen (15) class hours, on or before November 21, 2015.
  - b. A classroom course on the sales comparison approach, a minimum of eight (8) class hours, on or before November 21, 2015.
5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

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.

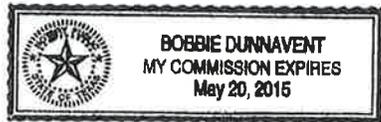
**RESPONDENT**

Signed this 20 day of August, 2014.

  
\_\_\_\_\_  
Michael Kevin Morris

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 20 day of August, 2014, by Michael Kevin Morris, to certify which, witness my hand and official seal.

Bobbie Dunnavent  
Notary Public Signature



Bobbie Dunnavent  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 20th day of August, 2014.

  
\_\_\_\_\_  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-023

Billy James Williams  
TX-1326207-G

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Billy James Williams (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT ✓**

1. Respondent is a Texas state certified general real estate appraiser who holds certification number TX-1326207-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 6151 Southmayd Road, Collinsville, Texas 76233 (the "Property") on or about April 15, 2013 and September 13, 2013.
3. Thereafter, the complaint, numbered 14-023, was filed with the Board by Robert Lambert, on or about September 19, 2013. The Board investigated the complaints to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (APA), and the Act, notified Respondent of the nature of the accusations involved, on or about September 30, 2013. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about October 22, 2013.
5. As a result of the Board's investigation, the Board contends that 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 Property:

- a. USPAP Ethics Rule – Respondent knowingly communicated an appraisal report that was misleading; Respondent failed to report that appraisal services performed on the subject property within the three (3) year period immediately preceding acceptance of an assignment;
- b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- c. USPAP Scope of Work Rule, USPAP Standards Rule 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- d. USPAP Standards Rule 1-4(f) and 2-2(b)(viii) – Respondent failed to identify report improvements on the site;
- e. USPAP Standards Rule 1-3(b) and 2-2(ix) – Respondent failed to properly develop the opinion of highest and best use;
- f. USPAP Standards Rule 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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; 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; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
- g. USPAP Standards Rule 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 the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
- h. USPAP Standards Rule 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 the applicability or suitability of the approaches; and
- i. USPAP Standards Rule 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by

not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisals of the Property as detailed above.

7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### 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 violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material 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 real estate appraiser certification (TX-1326207-G) is hereby suspended for eighteen (18) months, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** ✓ On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 on USPAP, a minimum of fifteen (15) class hours, on or before November 21, 2015.

- b. A classroom course on residential report writing, a minimum of fifteen (15) class hours, on or before November 21, 2015.
  - c. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.
  - d. A classroom course on market analysis, a minimum of fifteen (15) class hours, on or before November 21, 2015.
2. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of three thousand dollars (\$3,000), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
3. **TRAINEES.** Respondent shall not sponsor any trainees for twelve (12) months, beginning on November 21, 2014.
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.

## ACKNOWLEDGMENT AND WAIVER

Respondent's failure to timely comply with any term in this Agreed Final Order, which has a specific, stated due date shall result in the automatic revocation of probation and the suspension imposed in this Agreed Final Order shall be effective for the full term commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any terms in this Agreed Final Order, which has a specific, stated due date, the Respondent shall be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law



contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

### **EXECUTION ✓**

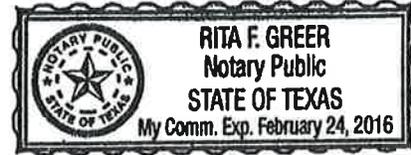
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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.



**RESPONDENT**

Signed this 28 day of August, 2014.



Billy James Williams  
Billy James Williams

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 28th day of August, 2014, by Billy James Williams, to certify which witness my hand and official seal.

Rita F. Greer  
Notary Public's Signature

Rita F. Greer  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 29th day of AUGUST, 2014.

Kyle Wolfe  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

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Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

JW

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BEN AUTRY CAMPBELL, JR.  
TX-1325877-G

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DOCKETED COMPLAINT NO. 13-299

**AGREED FINAL ORDER**

On the 23 day of August, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Ben Autry Campbell, Jr. (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 Ben Autry Campbell, Jr. is a Texas state certified general real estate appraiser who holds certification number TX-1325877-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised real property located at 504 Circle Drive, Sunset Beach, Texas (the "property") on or about January 15<sup>th</sup>, 2013.

3. On or about August 8, 2014, a complaint was filed with the Board by Joseph Kuzner, a staff appraiser with Flagstar Bank. The complaint alleged that the Respondent produced an appraisal report for the property that contained violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").

4. On or about August 9, 2014, 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 was received.

5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to the USPAP:

- a) USPAP Record Keeping Rule – Respondent's work file did not contain the documentation necessary to support his analyses, opinions and conclusions;

- b) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(v)(ii) – Respondent failed to perform the scope of work necessary to develop credible assignment results;
- c) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description for the property adequately;
- d) USPAP Standards 1-3(a) & -2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
- e) USPAP Standards 1-3(b) & 2-2(b)(viii) – Respondent failed to provide a summary of his rationale for his termination of the property's highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to employ appropriate methods or techniques to determine the property's site value and did not provide his supporting rationale for this determination;
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements;
- h) USPAP Standards 1-1(a) & 1-4(b) – Respondent did not employ recognized methods and techniques in his cost approach;
- i) 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 failed to employ recognized methods and techniques in his sales comparison approach;
- j) USPAP Standards 1-5(a) & 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;
- k) USPAP Standards 1-6(a) (b), and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches to value used and the applicability or suitability of the approaches;
- l) USPAP Standards 1-1(a), 1-1(b), and 1-1(c) – For the reasons detailed above, Respondent produced an appraisal for the property that contained substantial errors of omission or commission by not employing correct methods and techniques as detailed above. This resulted in an appraisal that was not credible or reliable.

6. Respondent's report contained material misrepresentations and omissions of material fact 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)(6).
3. Respondent made material misrepresentations or omissions of material facts as prohibited by 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 12 months, effective 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014, the suspension is to be fully probated for 12 months ending 5:00 p.m. (CST) on November 20<sup>th</sup>, 2015, subject to the following terms and conditions:

1. **EDUCATION.** On or before May 20<sup>th</sup>, 2015, 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;
  - B. A minimum 7 classroom hour course in the cost approach and site valuation;  
and,
    - i. No examination shall be required for this course;
  - C. A minimum 7 classroom hour course in residential report writing.
    - i. No examination shall be required for this course;

2. **MENTORSHIP.** On or before February 20<sup>th</sup>, 2015, 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 the mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 8 hours of mentorship shall include:
  - A. 4 hours on comparable sales selection; and,
  - B. 4 hours on the sales comparison approach and making adjustments to sales;
3. **NO TRAINEES.** Respondent shall not sponsor or supervise any appraiser trainees for the duration of the above-referenced 12 month probation period;
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.

## **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this agreed final order, which has a specific stated due date, shall result in the automatic revocation of probation and the suspension imposed in this agreed final order shall be effective for the full term and amount, commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any term in this agreed final order, which has a specific, stated due date, the Respondent shall also be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Texas Appraiser Licensing and Certification Act or the administrative procedure act and Respondent specifically waives any such hearing or due process.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

### **EXECUTION**

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.

**RESPONDENT**

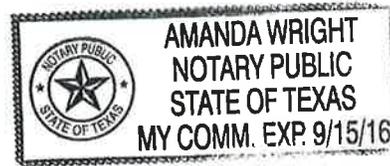
Signed this 23 day of August, 2014.

*BEN AUTRY CAMPBELL, JR.*  
BEN AUTRY CAMPBELL, JR.

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 23<sup>rd</sup> day of August, 2014, by BEN AUTRY CAMPBELL, JR., to certify which, witness my hand and official seal.

*AMANDA WRIGHT*  
Notary Public Signature

AMANDA WRIGHT  
Notary Public's Printed Name



**BOARD STAFF ATTORNEY**

Signed by the Standards and Enforcement Services Division this 2<sup>nd</sup> day of SEPTEMBER, 2014.

*Troy Beaulieu*  
Troy Beaulieu, Staff Attorney

Texas Appraiser Licensing and Certification Board

**BOARD COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**BOARD CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JAMES M. MILNER  
TX-1320687-R

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DOCKETED COMPLAINT NO.  
14-051

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of James M. Milner (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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 TX-1320687-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at: 350 Tyler Court, Weatherford, Texas 76086 (the "Property") on or about May 27, 2011.
3. On or about October 15<sup>th</sup>, 2013, complaint 14-051 was staff-initiated based upon an experience audit and which alleged Respondent violated various provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. On or about January 31<sup>st</sup>, 2014, the Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent provided the documentation.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 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 misrepresented that he inspected the Property when he did not do so;

- b) USPAP Record Keeping Rule -- Respondent failed to maintain a work file containing the documentation necessary to support of his analyses, opinions and conclusions;
- c) USPAP Competency Rule – Respondent was not competent to perform the appraisal of the Property;
- d) USPAP Scope of Work Rule 1-2(h) & Standard 2-2(vii) – Respondent failed to develop and perform the scope of work necessary to develop credible assignment results;
- e) USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent failed to identify the type and definition of value and its source and did not indicate whether market value was estimated in terms of cash or cash equivalency or other non-market financing terms;
- f) USPAP Standards 1-2(f) and 1-2(g), 2-1(c) & 2-2(b)(x) – Respondent failed to report hypothetical conditions and extraordinary assumptions used in his appraisal of the Property and indicate that such resulted in credible assignment results. Use of such conditions and assumptions did not produce credible assignment results;
- g) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report adequately the site and improvements description;
- h) USPAP Standards 1-2(e)(iii), 1-4(g) & 2-2(b)(viii) – Respondent failed to identify and consider the effect on value of intangible items included in the appraisal;
- i) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report on individual leases and the rental pool agreement;
- j) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix) – Respondent failed to identify and analyze the effect on use and value of economic supply and demand and market area trends and failed to provide a summary of his rationale for his determination of the Property's highest and best use;
- k) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to utilize an appropriate method or technique to develop an opinion of site value and did not employ recognized methods and techniques and provide support for his site value determination;
- l) 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 cost of new improvements and did not employ recognized methods and techniques;
- m) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze, and reconcile accrued depreciation and provide supporting rationale for his conclusions regarding this matter;

- n) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to correct, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques correctly in the Sales Comparison Approach;
- o) USPAP Standards 1-4(c)(i) & 2-2(b)(viii); 1-4(c)(ii) & 2-2(b)(viii); 1-4(c)(iv) & 2-2(b)(viii); 1-1(a) – Respondent failed to collect, verify, analyze and reconcile comparable rental data or potential earnings capacity, did not collect, verify, analyze and reconcile comparable operating expenses, did not base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence and generally did not employ recognized methods and techniques in the income approach;
- p) USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to report and analyze all agreements of sale, options or listings of the Property current as of the effective date of his appraisal;
- q) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze prior sales of the Property within 3 years prior to the effective date of his appraisal;
- r) 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,
- s) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and, 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission which significantly impacted the appraisal and resulted in a misleading appraisal report.

6. Respondent made material misrepresentations and omissions of material fact in his appraisal of the Property as detailed above.

7. The parties enter into this Agreed Final 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 CHPT. 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 and 153.20(a)(6).

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification (TX-1320687-R) be suspended, effective 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014 and ending at 5:00 p.m. (CST) on November 20<sup>th</sup>, 2016. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014, the suspension is to be fully probated, ending 5:00 p.m. (CST) on November 20<sup>th</sup>, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 20<sup>th</sup>, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final 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 the Sales Comparison Approach;
    - i. No examination shall be required;
  - c. A minimum, 7 classroom hour course in the Cost Approach;
    - i. No examination shall be required;
  - d. A minimum, 7 classroom hour course in the Income Approach for Residential Properties;
    - i. No examination shall be required;
2. **MENTORSHIP.** On or before February 20<sup>th</sup>, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the

approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**

- a. 2 hours of mentorship in sales comparison approach;
  - b. 2 hours of mentorship in the income approach;
  - c. 2 hours in the cost approach;
  - d. 1 hour in addressing external obsolescence; and,
  - e. 1 hour in report writing.
3. **ADMINISTRATIVE PENALTY.** On or before December 11<sup>th</sup>, 2014. Respondent shall pay to the Board an administrative penalty of two thousand dollars (\$2,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before December 11<sup>th</sup>, 2014).
  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.

#### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this agreed final order, which has a specific stated due date, shall result in the automatic revocation of probation and the suspension imposed in this agreed final order shall be effective for the full term, commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any term in this agreed final order, which has a specific, stated due date, the Respondent shall also be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Texas Appraiser Licensing and Certification Act or the administrative procedure act and Respondent specifically waives any such hearing or due process.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

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.

#### **RESPONDENT**

Signed this 2 day of September, 2014.

  
JAMES M. MILNER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 2<sup>nd</sup> day of September, 2014, by JAMES M. MILNER, to certify which, witness my hand and official seal.

Linda Louise Gilbert  
Notary Public Signature  
Linda Louise Gilbert  
Notary Public's Printed Name



**BOARD STAFF ATTORNEY**

Signed by the Standards and Enforcement Services Division this 3<sup>RD</sup> day of SEPTEMBER, 2014.

Troy Beaulieu  
Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**BOARD COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**BOARD CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

SINTHALAY CHANTHANALAY  
TX-1360006-R

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DOCKETED COMPLAINT NO.  
13-211

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Sinthalay Chanthanalay (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 (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-1360006-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about December 6, 2012, Respondent appraised a residential condominium property located at 2475 Underwood Street #270, Houston, Texas ("the property") on or about December 12<sup>th</sup>, 2012.
3. On or about April 29, 2013, a complaint was filed with the Board by Mark Liley, an employee of Flagstar Bank, FSB, claiming the appraisal report contained various deficiencies. The Board reviewed the complaint to ensure compliance with Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. On or about May 3, 2013, the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of his appraisal report for the property:

- a) USPAP Ethics Rule (conduct) – Respondent misrepresented he had inspected the property when that was not the case;
- b) USPAP Record Keeping Rule – Respondent's work file does not contain the documentation necessary to support his analyses, opinions and conclusions;
- c) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to perform the necessary scope of work necessary for development of credible assignment results;
- d) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the improvement(s) and site description adequately;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii) – Respondent misrepresented the project budget was not available and failed to disclose and analyze information about expenditures and reserves;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of economic supply & demand, and market area trends and did not summarize his rationale for his highest and best use determination;
- g) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in his sales comparison approach;
- h) USPAP Standard 2-2(b)(viii) – Respondent misrepresented that condo units were not purchased for income purposes even though roughly 30% of the units were being leased. He failed to conduct an income approach when one was necessary and he failed to support his exclusion of the income approach;
- i) 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 to value; and,
- j) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained substantial errors of omission or commission by not employing correct methods and techniques.

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

7. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended, effective 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014 and ending at 5:00 p.m. (CST) on August 20<sup>th</sup>, 2016. IT IS FURTHER ORDERED that beginning at the latter of: (1) 5:00 p.m. (CST) on December 5<sup>th</sup>, 2014 or (2) the time at which all remedial education, administrative penalties and mentorship required by this agreed final order is completed, submitted and received by the Board, the suspension is to be fully probated for the remaining time period, ending on 5:00 p.m. (CST) on August 20<sup>th</sup>, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 20<sup>th</sup>, 2015. 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 minimum fifteen (15) classroom hour course in USPAP;
  - b. A minimum seven (7) classroom hour course in the Income Approach for residential properties; and,
  - c. A minimum seven (7) classroom hour course in the Sales Comparison Approach;
2. **MENTORSHIP.** On or before February 20<sup>th</sup>, 2015. 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 16 hours of mentorship shall include:

- a. 4 hours in the income approach;
  - b. 4 hours in research, selection and analysis of comparable sales;
  - c. 4 hours in residential report writing;
  - d. 4 hours in developing a sufficient scope of work;
3. **ADMINISTRATIVE PENALTY.** On or before December 11<sup>th</sup>, 2014. Respondent shall pay to the Board an administrative penalty of four thousand dollars (\$4,000.00) by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before December 11<sup>th</sup>, 2014).
  4. **TRAINEES.** Respondent shall not sponsor any appraiser trainees during the entire eighteen (18) month probation period.
  5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
  6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this agreed final order, which has a specific stated due date, shall result in the automatic revocation of probation and the suspension and \$4,000 administrative penalty imposed in this agreed final order shall be effective for the full term and amount, commencing on the effective date of the revocation of probation. In such case, the \$4,000 administrative penalty shall be due within 20 days of the effect date of the revocation of probation. If Respondent fails to timely comply with any term in this agreed final order, which has a specific, stated due date, the Respondent shall also be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Texas Appraiser Licensing and Certification Act or the administrative procedure act and Respondent specifically waives any such hearing or due process.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

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.

**RESPONDENT**

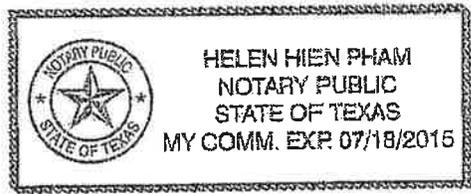
Signed this 29 day of August, 2014.

*Sinthalay Chanthanalay*  
SINTHALAY CHANTHANALAY

*David Tang*  
DAVID TANG, ATTORNEY FOR  
SINTHALAY CHANTHANALAY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 3 day of Sept, 2014, by SINTHALAY CHANTHANALAY, to certify which, witness my hand and official seal.

*Helen Hien Pham*  
Notary Public Signature  
Helen Hien Pham  
Notary Public's Printed Name



**BOARD STAFF ATTORNEY**

Signed by the Standards and Enforcement Services Division this 4<sup>th</sup> day of SEPTEMBER, 2014.

*Troy Beaulieu*  
Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**BOARD COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**BOARD CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

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



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
13-329

Ted Norman Lear  
TX-1321121-G

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Ted Norman Lear (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified general real estate appraiser who holds certification number TX-1321121-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 4808 Running Deer Drive, Austin, Texas 78759 (the "Property") on or about March 27, 2013.
3. Thereafter, the complaint, numbered 13-329, was filed with the Board by Patricia Barrueta on or about April 17, 2013. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (APA), and the Act, notified Respondent of the nature of the accusations involved on or about December 6, 2013. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation on or about March 28, 2014.
5. As a result of the Board's investigation, the Board contends that 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 Property:

- a. USPAP Standards Rule 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to identify and report the Property’s zoning;
  - b. USPAP Standards Rule 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
  - c. USPAP Standards Rule 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the opinion of highest and best use;
  - d. USPAP Standards Rule 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 the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
  - e. USPAP Standards Rule 2-2(b)(v)(iii) – Respondent failed to explain and support the exclusion of the income approach;
  - f. USPAP Standards Rule 1-6(a), 1-6(b), and 2-2(b)(viii) – Respondent failed to reconcile the applicability or suitability of the approaches; and
  - g. USPAP Standards Rule 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **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).

1. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.
2. 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 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 21, 2015.
2. **REPRIMAND.** Respondent is hereby reprimanded for the above-noted violations.
3. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
4. Respondent shall 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.

## **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

#### **EXECUTION**

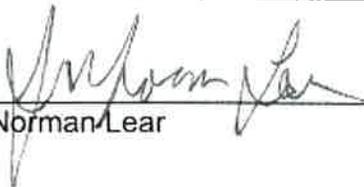
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be

deemed an original and together shall comprise evidence of full execution of the agreement.

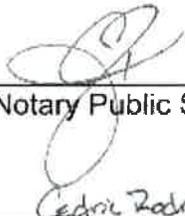
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

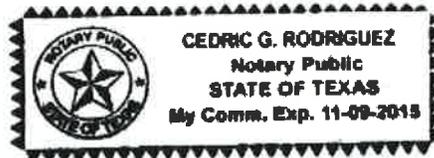
**RESPONDENT**

Signed this 4 day of September, 2014.

  
\_\_\_\_\_  
Ted Norman Lear

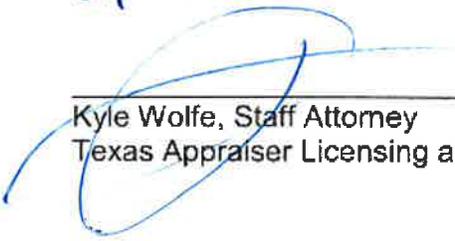
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 4<sup>th</sup> day of September, 2014, by Ted Norman Lear, to certify which, witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public Signature  
Cedric Rodriguez  
\_\_\_\_\_  
Notary Public's Printed Name



**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 8<sup>th</sup> day of September, 2014.

  
\_\_\_\_\_  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

LARRY MILTON STREET  
TX-1332076-R

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DOCKETED COMPLAINT NO.  
14-112

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Larry Milton Street (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1332076-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 15630 Oyster Cove Drive, Sugar Land, Texas 77478 (the "Property"), on or about October 9, 2013.
3. Thereafter, the complaint, numbered 14-112, was filed with the Board by Carter M. Crane, on or about January 27, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX. GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about February 4, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about February 20, 2014.
5. As a result of the Board's investigation, the Board contends that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a)

Agreed Final Order  
Page 1 of 7

by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Ethics Rule – Respondent communicated the assignment results in a grossly negligent manner;
- b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- c. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- d. USPAP Standards Rules 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to consider and report the construction contract and failed to identify and report the Property's zoning;
- e. USPAP Standards Rules 1-3(a) and 2-2(b)(viii), 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
- f. USPAP Standards Rules 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the opinion of highest and best use;
- g. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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; 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; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
- h. USPAP Standards Rules 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 the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
- i. USPAP Standards Rules 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 and analyze the contracts of sale and reconcile that information and data and failed to provide a summary of supporting reasoning and analysis of all of this information and reconciliation;

- j. USPAP Standards Rules 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject within three (3) years prior to the effective date of the appraisal;
  - k. USPAP Standards Rules 1-2(e) and 2-2(b)(viii) – Respondent failed to retain plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements;
  - l. USPAP Standards Rule 2-1(a) – The appraisal report for the Property contained incorrect certification; and
  - m. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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 November 21, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or

before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 USPAP, on or before November 21, 2015.
  - b. Four (4) hours of mentorship concerning the sales comparison approach, on or before November 21, 2015.
2. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 on the sales comparison approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.
3. **REPORT.** On or before November 21, 2015, upon completion of the mentorship, Respondent shall submit to the Board a two (2) page written report summarizing the topics covered in the in-person mentorship.
4. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before November 21, 2015, Respondent shall promulgate, adopt and implement written, preventative policies and/or procedures addressing the above-noted deficiencies in his professional appraisal practice. Respondent shall submit the promulgated, adopted and implemented written, preventative policies and/or procedures to the Board on or about November 21, 2015.
5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its Staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

Agreed Final Order  
Page 5 of 7

**EXECUTION**

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.

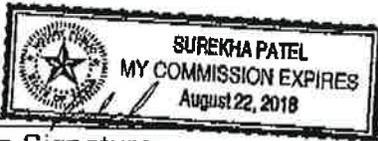
**RESPONDENT**

Signed this 6<sup>th</sup> day of SEPTEMBER, 2014.

  
Larry Milton Street

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 6<sup>th</sup> day of SEPTEMBER, 2014, by Larry Milton Street, to certify which witness my hand and official seal.

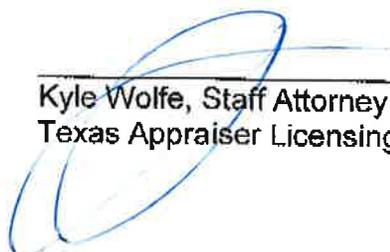
  
Notary Public's Signature



SUREKHA PATEL  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 9<sup>th</sup> day of September, 2014.

  
\_\_\_\_\_  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JILL DAVIS HOFFMAN  
TX-1337093-R

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DOCKETED COMPLAINT NO.  
14-103

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Jill Davis Hoffman (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1337093-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 2824 Seaside Drive, Seabrook, Texas 77586 (the "Property") on or about September 28, 2013.
3. Thereafter, the complaint, numbered 14-103, was filed with the Board by Richard White, January 13, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (APA), and the Act, notified Respondent of the nature of the accusations involved, on or about February 13, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about March 26, 2014.
5. As a result of the Board's investigation, the Board contends that 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 Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- c. USPAP Standards Rules 1-2(c) and 2-2(b)(v) – Respondent failed to identify a definition of value and the reasonable exposure time was not supported by the data;
- d. USPAP Standards Rules 2-2(b)(vi) – Respondent failed to identify the date of the report;
- e. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
- f. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the improvements;
- g. USPAP Standards Rules 1-4(f) and 2-2(b)(viii) – Respondent failed to report public and private improvements on the site;
- h. USPAP Standards Rules 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to identify and report the Property's zoning;
- i. USPAP Standards Rules 1-3(a) and 2-2(b)(viii), 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
- j. USPAP Standards Rules 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the opinion of highest and best use;
- k. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) 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; 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; 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 Rules 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 the sales comparison approach. Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison

approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;

- m. USPAP Standards Rules 1-5(a) and 2-2(b)(viii) – Respondent failed to analyze all sales of the subject within three (3) years prior to the effective date of the appraisal; and
- n. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

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

7. The parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **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 violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material 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. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 21, 2015.
  - b. A classroom course on the sales comparison approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.
2. **MENTORSHIP.** On or before November 21, 2015, 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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, on or before November 21, 2015.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its Staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

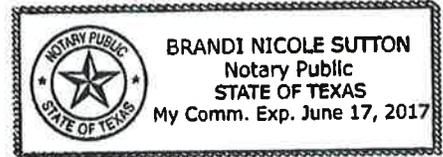
### **EXECUTION**

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.

**RESPONDENT**

Signed this 5<sup>th</sup> day of September, 2014.



Jill Davis Hoffman  
Jill Davis Hoffman

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 5<sup>th</sup> day of September, 2014, by Jill Davis Hoffman, to certify which witness my hand and official seal.

Brandi Sutton  
Notary Public's Signature

BRANDI SUTTON  
Notary Public's Printed Name

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**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 9<sup>th</sup> day of September, 2014.

Kyle Wolfe  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-108

ROBERT KYLE VISSER  
TX-1333468-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of ROBERT KYLE VISSER (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1333468-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 2310 Thompson Crossing Drive, Richmond, Texas (the "Property"), on or about April 18, 2013.
3. Thereafter, the complaint, numbered 14-108, was staff-initiated and filed with the Board by Mark Mrnak, on or about January 15, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about January 27, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about April 10, 2014.

5. As a result of the Board's investigation, the Board finds that 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 of the Property:

- a. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and describe the improvements adequately;
- b. USPAP Standards 1-2(e)(iii) & 1-4(g) & 2-2(b)(viii); 1-5(a) – Respondent failed to identify and consider the effect on value of personal property contained in the media room that was included in the appraisal and did not report and analyze this information contained in the contract of sale;
- c. USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop his site value determination;
- d. 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 employ recognized methods and techniques in the sales comparison approach; and,
- e. USPAP Standards 1-1(a), 1-1(b), 1-1(c), and, 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission which significantly impacted the appraisal and resulted in a misleading appraisal report.

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

7. Respondent sponsored appraiser trainee Sidney P. Victory III during all times material to the above-noted complaint and this trainee assisted in inspecting the Property, data analysis and writing 80-90% of the appraisal report. However, Respondent failed to supervise the trainee adequately, in particular, with regards to the selection and analysis of potential comparable sales, and the reporting and analysis of personal property included in the sales contract.

8. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.
4. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(15) by failing to supervise an appraiser trainee under his sponsorship actively, personally and diligently.
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 November 20, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 hour classroom course in USPAP;
  - b. A minimum, 7 hour classroom course in the sales comparison approach and adjustments;
2. **MENTORSHIP.** On or before February 20, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 sales comparison approach;

3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation

(reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

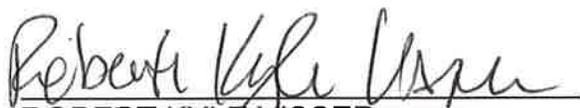
**EXECUTION**

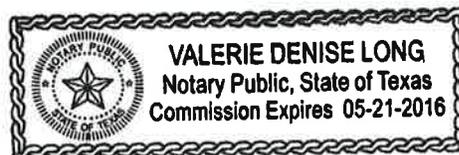
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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.

**RESPONDENT**

Signed this 12 day of September, 2014.

  
ROBERT KYLE VISSER



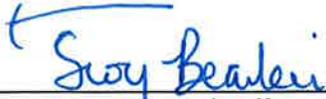
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 12<sup>th</sup> day of September, 2014, by ROBERT KYLE VISSER, to certify which witness my hand and official seal.

  
Notary Public's Signature

Valerie Denise Long  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 18<sup>th</sup> day of SEPTEMBER, 2014.



Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
13-187

JOE J. ROBERTS  
TX-1320506-G

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Joe J. Roberts (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified general real estate appraiser who holds certification TX-1320506-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at: 6936 Country Road 527, Burleson, Texas 76028 (the "Property") on or about January 30, 2013.
3. Thereafter, a complaint was filed with the Board by Deb Nikodym, an employee of Rels Valuation, which alleged Respondent violated various provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent provided the documentation.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 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 (conduct provisions) – Respondent misrepresented he had inspected the property when he did not do so;

- b) USPAP Record Keeping Rule – Respondent failed to maintain a work file containing the documentation necessary to support of his analyses, opinions and conclusions;
- c) USPAP Scope of Work Rule 1-2(h) & Standard 2-2(b)(vii) – Respondent failed to develop and perform the scope of work necessary to develop credible assignment results;
- d) USPAP Standards 1-2(f), 2-1(c) & 2-2(b)(x) – Respondent failed to set forth extraordinary assumptions clearly and accurately which directly affected his analyses, opinions and conclusions;
- e) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report adequately the site and improvements description;
- f) 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;
- g) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix) – Respondent failed to identify and analyze the effect on use and value of economic supply and demand and market area trends and failed to provide a summary of her rationale for his determination of the property's highest and best use;
- h) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to utilize an appropriate method or technique to develop an opinion of site value and did not employ recognized methods and techniques;
- i) 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 cost of new improvements and did not employ recognized methods and techniques;
- j) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-1(b) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations and did not employ recognized methods and techniques;
- k) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to correct, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques correctly in the Sales Comparison Approach;
- l) 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,
- m) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and, 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained

several substantial errors of omission or commission which significantly impacted the appraisal and resulted in a misleading appraisal report. He also misrepresented that she inspected the property when he did not do so.

6. Respondent made material misrepresentations and material omissions of material fact in his appraisal of the Property as detailed above.

7. The parties enter into this Agreed Final 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 CHPT. 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 and 153.20(a)(6).

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification (TX-1320506-G) be suspended, effective 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014 and ending at 5:00 p.m. (CST) on November 20<sup>th</sup>, 2016. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on November 21<sup>st</sup>, 2014, the suspension is to be fully probated for 24 months, ending 5:00 p.m. (CST) on November 20<sup>th</sup>, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 20<sup>th</sup>, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final 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 the Sales Comparison Approach;
    - i. No examination shall be required;
  - c. A minimum, 7 classroom hour course in the Cost Approach;
    - i. No examination shall be required;
  - d. A minimum, 7 classroom hour course in Residential Report Writing;
    - i. No examination shall be required;
2. **MENTORSHIP.** On or before February 20<sup>th</sup>, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 sales comparison approach;
  - b. 2 hours of mentorship in residential report writing; and,
  - c. 3 hours of mentorship in the cost approach.
3. **PREVENTATIVE POLICIES & PROCEDURES.** On or before February 20<sup>th</sup>, 2015, Respondent shall submit to the Board written preventative policies and procedures addressing the topic areas itemized above in which he identifies, describes and details newly developed appraisal practice policies and procedures he will apply to his appraisal practice going forward in order to avoid future problems with his work product.
4. **ADMINISTRATIVE PENALTY.** On or before December 11<sup>th</sup>, 2014, Respondent shall pay to the Board an administrative penalty of two thousand dollars (\$2,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before December 11<sup>th</sup>, 2014).
5. **TRAINEES.** Respondent shall not sponsor any trainees during the entire 24 month period of probation, ending on November 20<sup>th</sup>, 2016.

6. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order, and
7. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this agreed final order, which has a specific stated due date, shall result in the automatic revocation of probation and the suspension imposed in this agreed final order shall be effective for the full term, commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any term in this agreed final order, which has a specific, stated due date, the Respondent shall also be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Texas Appraiser Licensing and Certification Act or the administrative procedure act and Respondent specifically waives any such hearing or due process.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

## EXECUTION

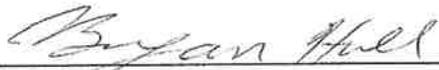
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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 September, 2014.

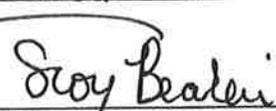
  
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JOE J. ROBERTS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17<sup>th</sup> day of September, 2014, by JOE J. ROBERTS, to certify which, witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public Signature  
Bryan Hull  
\_\_\_\_\_  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15<sup>TH</sup> day of OCTOBER, 2014.

  
\_\_\_\_\_  
Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-107

SCOTT DAVID SHERRILL  
TX-1320957-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Scott David Sherrill (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1320957-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 15401 Cameron Rd Pflugerville, TX 78660 (the "Property"), on or about January 8, 2014.
3. Thereafter, the complaint, numbered 14-107, was filed with the Board by James G. Cunningham, on or about January 16, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about January 23, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about March 14, 2014.
5. As a result of the Board's investigation, the Board contends that 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 of the Property:

- a. USPAP Ethics Rule – Respondent communicated the assignment results in a grossly negligent manner;
- b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- c. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- d. USPAP Competency Rule – Respondent was not competent to perform the assignment;
- e. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately identify and report the site description;
- f. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately identify and report the improvements;
- g. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii) – Respondent failed to consider and report easements;
- h. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii) – Respondent failed to identify and report the Property's zoning;
- i. USPAP Standards Rules 1-3(a) and 2-2(a)(viii); 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
- j. USPAP Standards Rules 1-3(b) and 2-2(a)(ix) – Respondent failed to properly develop the opinion of highest and best use;
- k. USPAP Standards Rules 1-4(a) and 2-2(a)(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 the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
- l. USPAP Standards Rules 1-5(a) and 2-2(a)(viii) – Respondent failed to disclose and analyze information regarding agreement of sale;

- m. USPAP Standards Rules 1-6(a), 1-6(b), and 2-2(a)(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 Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

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

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 on USPAP, a minimum of fifteen (15) class hours, on or before November 21, 2015.

- b. A classroom course on the sales comparison and income approach, a minimum of thirty (30) class hours, on or before November 21, 2015.
  - c. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.
  - d. A classroom course on highest and best use, a minimum of fifteen (15) class hours, on or before November 21, 2015.
2. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of three thousand dollars (\$3,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.
  3. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before November 21, 2015, Respondent shall promulgate, adopt and implement written, preventative policies and/or procedures addressing the above-noted deficiencies in his professional appraisal practice and submit the policies and/or procedures to the Board.
  4. **REPRIMAND.** Respondent is hereby reprimanded for the above-noted deficiencies.
  5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
  6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

### **EXECUTION**

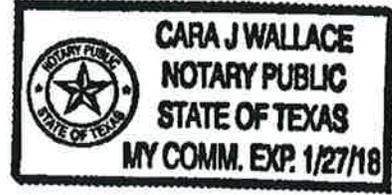
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

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.

**RESPONDENT**

Signed this 3 day of Nov., 2014.

Scott David Sherrill  
Scott David Sherrill



SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 3 day of November, 2014, by Scott David Sherrill, to certify which witness my hand and official seal.

Cara J Wallace  
Notary Public's Signature

Cara J Wallace  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 4th day of November, 2014.

Kyle Wolfe  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

Agreed Final Order  
Page 6 of 6

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-117

RICHARD WADE COFFIN  
TX-1321570-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Richard Wade Coffin (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 (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final 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-1321570-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 526 Patton Blvd., San Antonio, Texas 78237 (the "Property"), on or about January 28, 2014.
3. Thereafter, the complaint, numbered 14-117, was filed with the Board by Anthony Arvizu, on or about January 29, 2014. The Board investigated the complaint to ensure compliance with 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. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about February 6, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about March 17, 2014.
5. As a result of the Board's investigation, the Board contends that 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 of the Property:

- a. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately identify and report the effect, if any, of the commercial site adjacent to the Property;
  - b. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately address the super adequacy of the Property’s gross living area, the Property’s updates to the kitchen, and the Property’s garage;
  - c. USPAP Standards Rules 1-3(a) and 2-2(a)(viii); 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
  - d. USPAP Standards Rules 1-4(a) and 2-2(a)(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 the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
  - e. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**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 violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material 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. **EDUCATION.** On or before November 21, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final 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 Agreed Final 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 21, 2015.
  
2. **MENTORSHIP.** On or before November 21, 2015, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 USPAP, on or before November 21, 2015.
  - b. Four (4) hours of mentorship concerning the sales comparison approach, on or before November 21, 2015.
  
3. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before November 21, 2015, Respondent shall promulgate, adopt and implement written, preventative policies and/or procedures addressing the above-noted deficiencies in his professional appraisal practice.

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.

#### **ACKNOWLEDGMENT AND WAIVER**

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 shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

**EXECUTION**

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.

**RESPONDENT**

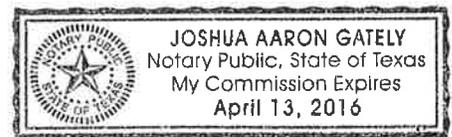
Signed this 7 day of November, 2014.

Richard Wade Coffin  
Richard Wade Coffin

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 7 day of November, 2014, by Richard Wade Coffin, to certify which witness my hand and official seal.

[Signature]  
Notary Public's Signature

Joshua Gateley  
Notary Public's Printed Name



Agreed Final Order  
Page 5 of 6



Ted Whitmer, Respondent's Attorney

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**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 7th day of November, 2014.



---

Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

---

Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



**AGENDA ITEM 8**

Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #13-305 (Lateef A. Akanji, TX-1335567-R).



**Dione Frederick**

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**Subject:** LAST CLASS IN MY AGREED ORDER (13-05)

**From:** LANDMARKS APPRAISAL SERVICES [<mailto:lakanji2003@att.net>]

**Sent:** Thursday, November 06, 2014 11:10 PM

**To:** [Kristen.worman@trec.texas.gov](mailto:Kristen.worman@trec.texas.gov)

**Subject:** LAST CLASS IN MY AGREED ORDER (13-05)

Dear Ms Kristen Worman,

I agreed in the final order to do the following : -

- a. 15-hour USPAP course;
- b. Residential Sales Comparison - The Adjustment process (8-hours);
- c. Advanced Residential Case Studies (14-hours);
- d. 8-hours of Mentorship.

I have done all these courses and 8-hours of Mentorship, but remaining the last one which is Residential Sales Comparison - The Adjustment process (8-hours) which Champion School of Real Estate will offer on December 8-11 next month. I suppose to turn in all the attended course papers on or before November 21, since the last course will be offered in December 8-11, that is why I will be unable to turn in all the papers. In August, I mistakenly hurt my right toe by knocking it to the front schrubs of the house I was doing appraiser inspection. It took a while before it heals, I thank God Almighty that there was no broken bone. Since it was stipulated that all courses must be taken in the classes and not on-line, that is why I want to do it when it is available in December 8-11.

For this reason, I am requesting from your Honor to have put on the agenda for the board meeting on the 21<sup>st</sup> the *discussion and possible vote to grant an Agreed Order Modification* to me, wherein with your honor and great authority that I may complete the final class by December 11, 2014.

My Best Regards,  
Lateef Akanji.

=====

LATEEF AKANJI  
LANDMARKS APPRAISAL SERVICES  
9737 AMBERTON PARKWAY, #2072,  
DALLAS, TEXAS, 75243

=====

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
13-305

LATEEF A. AKANJI  
TX-1335567-R

**AGREED FINAL ORDER**

On the 21 day of February, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of LATEEF A. AKANJI (the "Respondent").

In order to conclude this matter, LATEEF A. AKANJI 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-1335567-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 12133 Cross Creek Drive, Dallas, Texas ("the property") on or about July 10<sup>th</sup>, 2013.
3. Thereafter, a complaint was filed with the Board by Patty Drescher with Supreme Lending claiming the appraisal report contained various deficiencies. The Board reviewed the complaint to ensure compliance with 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 was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of his appraisal report for the property:

- a) USPAP Scope of Work Rule; USPAP Standards 1-2(h) and 2-2(b)(vii) -- Respondent failed to identify and perform the work necessary to produce a credible report for the subject property;
- b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description adequately;
- c) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends adequately and did not provide supporting documentation for his rationale;
- d) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide a summary of his rationale for his determination of the highest and best use;
- e) USPAP Standards 1-4(b)(i) and 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b); and 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements and accrued depreciations and did not employ recognized methods and techniques in his cost approach;
- 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 and did not employ recognized methods and techniques in his sales comparison approach;
- h) USPAP Standards 1-6(a) & (b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and,
- i) 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 an appraisal report for the property that contained several substantial errors of omission or commission by not employing correct methods and techniques.

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

7. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended for a period of 12 months, effective 5:00 p.m. (CST) on February 21<sup>st</sup>, 2014 and ending on February 20<sup>th</sup>, 2015.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on February 21<sup>st</sup>, 2014, the suspension is to be fully probated for the entire 12 months, ending on 5:00 p.m. (CST) on February 20<sup>th</sup>, 2015, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 21, 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. Attend and complete a minimum (15) classroom course in USPAP.
  - b. Attend and complete a minimum (7) classroom course in the sales comparison approach;
    - i. No examination shall be required for this course;
  - c. Attend and complete a minimum (14) classroom course in residential case studies;
2. **MENTORSHIP.** On or before May 21, 2014. Respondent shall complete eight

(8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 8 hours of mentorship shall include:

- a. 4 hours in the selection and analysis of comparable sales; and,
  - b. 4 hours in analyzing and supporting adjustments made in the sales comparison approach.
3. **NO TRAINEES.** Respondent shall not sponsor or supervise any appraiser trainees for the duration of the above-referenced 12 month probation period;
  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.

#### **ACKNOWLEDGMENT AND WAIVER**

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

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

**RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER.** Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this agreed final order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov), (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE AND I AM AWARE OF MY RIGHT TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER (E.G. PAYMENT OF A PENALTY, COMPLETION OF REMEDIAL EDUCATION, 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.

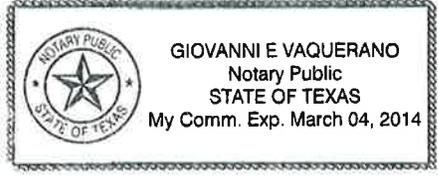
Signed this 31<sup>st</sup> day of December, 2013.

  
LATEEF A. AKANJI

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 31<sup>st</sup> day of December, 2013, by LATEEF A. AKANJI, to certify which, witness my hand and official seal.

*Giovanni E. Vaquerano*  
Notary Public Signature

Giovanni E. Vaquerano  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 7<sup>th</sup> day of JANUARY, 2014.

*Troy Beaulieu*  
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 21 day of Feb, 2014.

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

Approved by the Board and Signed this 21 day of Feb, 2014.

*Walker Beard*  
Walker Beard, Chairperson  
Texas Appraiser Licensing and Certification Board

**CERTIFICATION OF COMPLETION OF MENTORSHIP**

I hereby certify to the Texas Appraiser Licensing and Certification Board that during the time period of 4/15/2014 to 5/14/2014, I conducted a total of 8 1 hour, in person, face-to-face mentorship meetings with Lateef Akanji ("Appraiser"). During each of these mentorship meetings I discussed the Uniform Standards of Professional Appraisal Practice, real estate appraisal practices, skills, methods, techniques, processes or other germane material with the Appraiser in an effort to improve this individual's skills as a real estate appraiser. The Appraiser was interactive and collaborative with me in our common goal to improve this individual's skills as a real estate appraiser.

Greg Reynolds  
NAME (PRINT)

[Signature]  
SIGNATURE

DATE: 5/14/14

RECEIVED  
TEXAS REAL ESTATE COMMISSION  
MAY 19 2014  
CASHIER'S SECTION  
OPERATOR 2





TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

### **AGENDA ITEM 9(a)**

Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-14-3376.ALC (Victor Vincent Vaughan).



# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

August 8, 2014

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

VIA INTERAGENCY

**RE: SOAH Docket No. 329-14-3376.ALC; *In the Matter of Vincent Victor Vaughan***

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](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in cursive script, appearing to read "John Beeler".

John Beeler  
Administrative Law Judge

JB/vg  
Enclosure

xc: Troy Beaulieu, Staff Attorney, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX - VIA INTERAGENCY  
Vincent V. Vaughan, 311 Bridlegate Drive, McKinney, TX 75069 - VIA REGULAR MAIL  
Mark Mrnak, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 - (with 1 hearing CD; Certified Evidentiary Record) VIA-INTERAGENCY

300 W. 15<sup>th</sup> Street, Suite 502, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025  
512.475.4993 (Main) 512.475.3445 (Docketing) 512.322.2061 (Fax)  
[www.soah.state.tx.us](http://www.soah.state.tx.us)

SOAH DOCKET NO. 329-14-3376.ALC

TEXAS APPRAISER LICENSING AND  
CERTIFICATION BOARD,  
Petitioner

v.

VINCENT VICTOR VAUGHAN,  
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Appraiser Licensing and Certification Board (Board) denied the application of Vincent Victor Vaughn for certification as a Residential Appraiser. Mr. Vaughan appealed the denial. Staff based its decision to deny the application on Mr. Vaughan's failure to provide sufficient verifiable information to support his claimed work experience as required by law. The Administrative Law Judge (ALJ) finds that, based on the evidence presented and the applicable law, the Board should deny the application.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

The hearing in this matter was held on June 11, 2014, before ALJ John H. Beeler. Staff Attorney Troy Beaulieu represented Staff. Mr. Vaughan appeared and represented himself. The record closed on the same day.

No issues were raised regarding notice or jurisdiction. Accordingly, those matters are addressed in the Findings of Fact and Conclusions of Law without further discussion here.

**II. APPLICABLE LAW**

To be eligible for certification as a General Real Estate Appraiser, an applicant must:

- (1) Pass an examination;

- (2) Complete a specified number of courses;
- (3) Provide evidence satisfactory to the Board demonstrating that the applicant has the minimum number of hours of experience in performing appraisals over the specified time period; and
- (4) Satisfy the Board as to his honesty, trustworthiness, and integrity.<sup>1</sup>

Only the third element is at issue in this case. The Board contends that Mr. Vaughan failed to provide sufficient evidence to demonstrate that he has the necessary and acceptable experience working as an appraiser.

The statute pursuant to which the Board operates, the Texas Appraiser Licensing and Certification Act (Act),<sup>2</sup> and the Board's rules specify a number of requirements with which an applicant must comply when proving his work experience. An applicant for a Residential Appraiser certification, such as Mr. Vaughan, must prove that he has at least 2,500 hours of real estate appraisal experience over a minimum of 24 months.<sup>3</sup> Those 2,500 hours may be earned in any one or a combination of types of appraisal work. An applicant may claim work experience for performing appraisals only for appraisals that were performed in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) Standards.<sup>4</sup>

The experience claimed by an applicant must be identified on an Appraisal Experience Log accompanied by an Appraisal Experience Affidavit, both of which must be submitted on forms promulgated by the Board.<sup>5</sup> The Board is then legally obligated to verify the legitimacy of the work experience claimed by the applicant. In order to do so, it may require the applicant to provide documentation in support of his claimed experience.<sup>6</sup> Staff may select a random sampling of the applicant's appraisals and ask the applicant to provide copies of the specified

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<sup>1</sup> Tex. Occ. Code § 1103.202; 22 Tex. Admin. Code § 153.15(a).

<sup>2</sup> Tex. Occ. Code ch. 1103.

<sup>3</sup> 22 Tex. Admin. Code § 153.15(b).

<sup>4</sup> 22 Tex. Admin. Code § 153.15(g)(1).

<sup>5</sup> Tex. Occ. Code § 1103.205(b); 22 Tex. Admin. Code § 153.15(f)(1).

<sup>6</sup> Tex. Occ. Code § 1103.206; 22 Tex. Admin. Code § 153.15(f)(4)(A) and (B).

appraisals along with supporting documentation relevant to those appraisals, including “workfiles.”<sup>7</sup> Applicants have 60 days from the date of Staff’s request to submit any records required for verification purposes.<sup>8</sup> An applicant’s failure to comply with a request for records relevant to his work experience may result in denial of a certification application.<sup>9</sup> If the requested materials are provided, Staff is then obligated to examine the appraisals and accompanying records and work files in order to confirm whether the work performed by the applicant complied with the applicable USPAP standards. If the work did not comply with the applicable USPAP standards, then it cannot be claimed as experience supporting the application.<sup>10</sup>

### III. EVIDENCE

#### A. Documentary Evidence

On April 23, 2013, Mr. Vaughan submitted his application for certification to the Board. A question on the application asked, “[C]an the applicant provide the work files for each appraisal assignment described in the experience log?” Mr. Vaughan answered, “Yes.” Immediately below that question, the application form included the following warning: **“If the applicant cannot provide work files with an appraisal report for each appraisal assignment described in the experience log, experience may NOT be claimed.”** Mr. Vaughan, also certified on the application that he would “furnish all additional information or documentation as may be deemed necessary for the verification of the information provided.”<sup>11</sup>

<sup>7</sup> 22 Tex. Admin. Code § 153.15(f)(4). In the rules and documents of the Board, “workfiles” and “work files” appear to be used interchangeably.

<sup>8</sup> 22 Tex. Admin. Code § 153.15(f)(4).

<sup>9</sup> 22 Tex. Admin. Code § 153.15(f)(5).

<sup>10</sup> 22 Tex. Admin. Code § 153.15(g).

<sup>11</sup> Staff Ex. 3.

In December 2013, Mr. Vaughan submitted to the Board his Appraisal Experience Log and Appraisal Experience Affidavit, using forms promulgated by the Board and identifying over 2,500 hours of experience.<sup>12</sup> The Appraisal Experience Affidavit signed by Mr. Vaughan included the following language:

In order to be acceptable, a person claiming experience must have had legal authority to appraise and experience must:

- (1) comply with USPAP;
- (2) *be verifiable (supported by written reports and workfiles);* and
- (3) comply with Appraiser Qualification Board criteria for acceptable experience.<sup>13</sup>

The affidavit also included the following certification, which Mr. Vaughan agreed to by signing the document:

I certify that for all the experience listed on this affidavit I signed the appraisal report or am named in the report as providing significant assistance. I further certify that I personally have the work files (or copies thereof) for the appraisals for which I claim experience in my possession, or I have written verification from the respective sponsor that the sponsor currently has them in his/her possession. I understand that I may be asked to produce copies of work files to verify experience claimed and that my application may be denied if I am unable to provide a work file for an appraisal listed in this affidavit. I understand that furnishing false information on this affidavit is a violation of the Texas Appraiser Licensing and Certification Act and a Class B misdemeanor.<sup>14</sup>

Among the many individual properties listed in Mr. Vaughan's experience affidavit were homes at 751 Woodlake Drive, Coppell, Texas (the Woodlake property), 1231 Tiffany Lane, Lewisville, Texas (the Tiffany property), and 5515 Wilmington Drive, Frisco, Texas (the Wilmington property). After reviewing the application, Staff asked Mr. Vaughan to provide a copy of the appraisals and work files for these three properties. Mr. Vaughan responded by

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<sup>12</sup> Staff Ex. 4.

<sup>13</sup> Staff Ex. 4 (Emphasis added).

<sup>14</sup> Staff Ex. 4.

letter, stating that he attempted to obtain the work files for Woodlake and Tiffany properties but was unable to do so. He also provided the appraisal and work file for the Wilmington property. Staff then advised Mr. Vaughan that it was denying his application because he failed to provide work files to verify his claimed work experience relating to the Woodlake and Tiffany properties, and because, based on information he provided concerning the Wilmington property, his work did not meet the requirements of USPAP.

## **B. Testimony**

### **1. Jeffrey Strawmyer**

Jeffrey Strawmyer is an investigator employed by the Board. He is responsible for, among other things, auditing experience logs submitted by applicants for Board certification. Upon receiving Mr. Vaughan's application, experience log, and affidavit, Mr. Strawmyer randomly selected the properties to audit. He explained that Staff is legally obligated not only by state law, but also by federal law, to audit the work of any applicant for certification as an appraiser in order to verify whether the applicant's work complies with the applicable standards. He testified that it is impossible to audit Mr. Vaughan's work without being able to review his work files. Mr. Strawmyer explained that he needs to look at the work files and reports to determine if they were prepared in compliance with USPAP and whether the data they contain is verifiable. He pointed out that USPAP defines a work file as documentation necessary to support an appraiser's analysis, opinions, and conclusions.

Mr. Strawmyer explained that the work product Mr. Vaughan provided for the Wilmington property did not comply with several USPAP standards. Specifically, Mr. Vaughan failed to disclose extraordinary assumptions, hypothetical conditions, and limiting conditions relied on in violation of USPAP Standards 4-2(f) and (g); 5-2(i). He failed to state the intended use of the appraisal consulting agreement in violation of USPAP Standards 4-2(b); 5-2(c). He failed to state the physical, legal, and economic characteristics of the property in violation of USPAP Standards 4-2(e); 5-2(d). He failed to identify the scope of work for the assignment in

violation of USPAP Standards 1-2(h) and 2-2(b)(v)(ii). He failed to identify the type and definition of value and his source of that definition in violation of USPAP Standards 1-2(c) and 2-2(b)(v). He failed to indicate the effective date of the appraisal consulting results in violation of USPAP Standards 4-2. He failed to employ recognized methods and techniques in his sales comparison in violation of USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a). Finally, Mr. Strawmyer testified that Mr. Vaughan violated USPAP ethics rules 5-1(a), 5-3, by signing a false certification misrepresenting that he had no prospective interest in a property he appraised.

Mr. Strawmyer testified that, because Mr. Vaughan never provided copies of work files for two properties and his appraisal of the third property did not meet USPAP standards, his application had to be rejected under the Board's rules.

## **2. Mr. Vaughan**

Mr. Vaughan testified at the hearing and admitted that he could not produce the work files for the Woodlake and Tiffany properties. He explained that the appraiser he worked under when appraising those properties is no longer in business. The other file he provided to Staff was not a complete appraisal under USPAP requirements because the client in that case terminated his employment prior to his finishing the work. He denied that he had a prospective interest in any of the properties he appraised.

Mr. Vaughan further stated that he has many hours of appraisal work and should be able to obtain his license. The rules of the Board are not fair, he stated, when it comes to situations like his. He has taken all of the required courses for licensure and does not understand why his experience was not accepted. He feels that the records of his experience were "nitpicked."

## **IV. ANALYSIS AND RECOMMENDATION**

The ALJ concludes that Mr. Vaughan failed to prove he is entitled to the certification he seeks. The law clearly states that an applicant for certification as a Residential Appraiser must

submit evidence satisfactory to the Board to demonstrate that he meets the experience requirements.<sup>15</sup> Additionally, the law requires the Board to verify acceptable experience and authorizes it to do so by requiring the applicant to provide specific, detailed information on Board-promulgated forms, and engaging in other investigative research determined to be appropriate by the Board.<sup>16</sup> Legally, therefore, the Board has the discretion to determine what information is necessary to verify an applicant's claimed experience. Moreover, the Board is authorized to require an applicant to submit that information to the Board.<sup>17</sup>

On his application, Mr. Vaughan stated that he could "provide the work files for each appraisal assignment described" in his experience log. The application included a warning, in bold type, that work experience could not be claimed for any work for which he could not provide a work file. Mr. Vaughan also signed the Appraisal Experience Affidavit which again warned him that work experience could not be claimed for any work for which he could not provide a work file. On the affidavit, he certified that he could produce a copy of his work files for any of the work identified in his log.

Yet, when Staff asked him for the work files and appraisals for the randomly-selected Woodlake and Tiffany properties, Mr. Vaughan was unable to provide the work files. Further, because the information he provided for the Wilmington property failed to comply with USPAP standards any work associated with the property could not be considered in determining if he had the required 2,500 hours of experience.

The ALJ is not able to determine if Mr. Vaughan had a prospective interest in any of the properties he appraised, so no finding is made concerning the allegation as to whether the Wilmington property appraisal could not be claimed on the grounds that it violated a USPAP ethics rule.

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<sup>15</sup> Tex. Occ. Code § 1103.205(b); 22 Tex. Admin. Code § 153.15(f).

<sup>16</sup> 22 Tex. Admin. Code § 153.15(f)(4)(A) and (B).

<sup>17</sup> 22 Tex. Admin. Code § 153.15(f)(4).

Because Mr. Vaughan failed to provide the information requested and required by the Board to verify that his claimed experience is creditable toward certification, and because he failed to establish that he had the required experience, his application for certification as a Residential Appraiser should be denied.

#### V. FINDINGS OF FACT

1. In April 2013, Vincent Vaughan submitted an application to the Texas Appraiser Licensing and Certification Board (Board) to be certified as a Residential Appraiser.
2. On the application, Mr. Vaughan stated that he could provide the work files for all work he described in his experience log.
3. In November 2013, Mr. Vaughan timely submitted to the Board an Appraisal Experience Affidavit and Appraisal Experience Log on forms prescribed by the Board.
4. On the log and affidavit, Mr. Vaughan again promised that he could provide the work files for all work he described in the log.
5. On December 9, 2013, the staff (Staff) of the Board sent a letter to Mr. Vaughan requesting that he submit a copy of his appraisals and work files for the Woodlake, Tiffany, and Wilmington properties.
6. The Board is required by law to confirm whether experience claimed by an applicant for certification complied with the applicable standards of the Uniform Standards of Professional Appraisal Practice (USPAP).
7. Mr. Vaughan never provided to Staff the work files requested by Staff for purposes of verifying his claimed work experience concerning the Woodlake or Tiffany properties.
8. Without copies of work files or reports corresponding to the experience Mr. Vaughan claimed, Staff was not able to sufficiently audit and verify the experience and, therefore, could not give Mr. Vaughan credit for work experience for the Woodlake and Tiffany properties.
9. The appraisal and work file provided by Mr. Vaughan for the Wilmington property did not contain a completed appraisal and was not in compliance with USPAP standards.
10. On March 6, 2013, Staff sent Mr. Vaughan a letter notifying him that his application was denied.

11. Mr. Vaughan timely requested a hearing to appeal the denial of his application.
12. Staff timely sent Mr. Vaughan a notice of hearing. The hearing notice contained a statement of the time, place, and nature of the hearing; a statement of 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.
13. The hearing on the merits was held on June 11, 2014, at the State Office of Administrative Hearings, William B. Clements Building, 300 West 15th Street, Austin, Texas. Staff appeared at the hearing through Staff Attorney Troy Beaulieu. Applicant appeared and represented himself. The record closed on the same day.

## VI. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. Tex. Occ. Code 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. Occ. Code § 1103.508; Tex. Gov't Code chs. 2001 and 2003.
3. Mr. Vaughan failed to provide satisfactory evidence to the Staff to demonstrate that he has at least the minimum required 2,500 hours of creditable appraisal experience. Tex. Occ. Code § 1103.202(3); 22 Tex. Admin. Code § 153.15(b).
4. Staff is required to verify the experience claimed by Mr. Vaughan and is authorized to do so by requiring him to provide specific documentation in support of his claimed experience, such as copies of randomly selected appraisals performed by Mr. Vaughan and the related work files. 22 Tex. Admin. Code § 153.15(f).
5. Because he failed to provide the documentation requested by Staff related to his work experience, Mr. Vaughan is not entitled to credit for the experience he claimed. 22 Tex. Admin. Code § 153.15(f)(4) and (5).
6. Mr. Vaughan's failure to comply with the Board's request for verification of experience constitutes a violation of Board rules and is a valid basis for denying his application. 22 Tex. Admin. Code § 153.15.
7. Staff provided Mr. Vaughan with proper notice of the hearing. Tex. Gov't Code §§ 2001.051 and 2001.052; Tex. Occ. Code § 1103.502.

8. The Board should deny Mr. Vaughan's application for certification as a Residential Appraiser.

SIGNED August 8, 2014.

  
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**JOHN H. BEELER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**





TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

### AGENDA ITEM 9(b)

Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-14-0562.ALC (Travis R. Cooper).



<b><u>DISCIPLINARY TERM</u></b>	<b><u>PARTIES' AGREED ORDER</u></b>	<b><u>PROPOSAL FOR DECISION</u></b>
<u>Suspension</u> – required by both the PFD and AO	6 months or upon passage of general certification exam, whichever is later.	Until Respondent demonstrates “proficiency” in complying with laws governing appraisers.  Could be read to include passage of general certification exam and 12 months or until Respondent issues 20 acceptable written appraisal reports.
<u>Monitoring</u> – required by both the PFD and AO	12 months  Respondent pays fees for Monitor to review reports and complies with monitor’s recommendations.	12 months or until Respondent issues 20 acceptable written appraisal reports, whichever is later.  Respondent pays fees for Monitor to review reports and complies with monitor’s recommendations.
<u>Examination</u> – required by both the PFD and AO	Must retake and pass general certification exam.	Must retake and pass general certification exam.
<u>Administrative Penalty</u> – required by both the PFD and AO	\$2,750	\$5,000
<u>Mentorship</u> – required by only the AO	12 hours:  4 – Sales Comparison approach 2 – Cost Approach 3 – USPAP Ethics Rule (conduct provisions) 3 – USPAP Scope of Work Rule	None required



# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

August 19, 2014

Douglas E. Oldmixon  
Administrator  
Texas Real Estate Commission  
1700 N. Congress Avenue, Suite 400  
Austin, TX 78701

**VIA INTERAGENCY**

**RE: Docket No. 329-14-0562.ALC; Texas Appraiser Licensing and Certification Board v. Travis R. Cooper**

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](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink that reads "Paul D. Keeper".

Paul D. Keeper  
Administrative Law Judge

PDK/eh  
Enclosure

xc: Troy Beaulieu, Attorney, 1700 N. Congress Avenue, Suite 400, Austin, TX 78701 –  
**VIA INTERAGENCY**  
Sadiyah A. Evangelista, Attorney, P.O. Box 1092, Houston, TX 77251 – **VIA REGULAR MAIL**  
Mark Moore, Director of Standards & Enforcement Services, 1700 N. Congress Ave., Suite 400,  
Austin, TX 78701 (with 1 CD) – **VIA INTERAGENCY**

SOAH DOCKET NO. 329-14-0562.ALC

TEXAS APPRAISER LICENSING § BEFORE THE STATE OFFICE  
AND CERTIFICATION BOARD, §  
Petitioner §  
v. § OF  
TRAVIS R. COOPER, §  
Respondent § ADMINISTRATIVE HEARINGS

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SOAH DOCKET NO. 329-14-0562.ALC

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD,  
Petitioner

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BEFORE THE STATE OFFICE

OF

v.

TRAVIS R. COOPER,  
Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff (Staff) of the Texas Appraiser Licensing and Certification Board (Board), Petitioner, alleged that Travis R. Cooper, Respondent, violated the Uniform Standards of Professional Appraisal Practice (USPAP) in the appraisal of real property in Houston, Texas. Staff seeks to impose a \$5,000 administrative penalty against Mr. Cooper and to revoke his general real estate appraiser certificate. Following a three-day hearing on the merits, the administrative law judge (ALJ) recommends that the Board suspend his license, impose certain remedial requirements described in Section VII, including the use of a monitor, and impose a \$5,000 administrative penalty.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Neither party challenged notice or jurisdiction. Those matters are addressed in the proposed findings of fact and conclusions of law.

On March 24, 2014, the ALJ convened a hearing on the merits. Attorney Troy Beaulieu represented Staff, and attorney Sadiyah Evangelista represented Mr. Cooper. On March 25, 2014, the ALJ granted the parties' joint motion for a recess. By agreement, the ALJ reconvened the hearing on April 16, 2014, and adjourned the hearing on the same day. The parties filed briefs, and the record closed on June 20, 2014.

## II. APPLICABLE LAWS

The Texas Appraiser Licensing and Certification Act (Act) gives the Board the authority to regulate the profession of real estate appraising.<sup>1</sup> The Act requires an appraiser to comply with the Act and the Board's rules, including the most current version of USPAP.<sup>2</sup> The Board may suspend or revoke the license of an appraiser who:

- fails to comply with the version of USPAP in effect at the time of the appraisal or appraisal practice;<sup>3</sup>
- accepts payment for services contingent upon a minimum or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made;<sup>4</sup>
- agrees to perform appraiser services when employment to perform such services is contingent upon a minimum or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made;<sup>5</sup> or
- makes a material misrepresentation or omission of material fact.<sup>6</sup>

As the party seeking affirmative relief, Staff had the burden to allege and prove its allegations by a preponderance of the evidence.<sup>7</sup>

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<sup>1</sup> Tex. Occ. Code ch. 1103.

<sup>2</sup> Tex. Occ. Code §§ 1103.002(2), 405. The 2012-13 version of the USPAP manual was admitted as Staff Ex. 3.

<sup>3</sup> 22 Tex. Admin. Code § 153.20(a)(6).

<sup>4</sup> 22 Tex. Admin. Code § 153.20(a)(10).

<sup>5</sup> 22 Tex. Admin. Code § 153.20(a)(11).

<sup>6</sup> 22 Tex. Admin. Code § 153.20(a)(12).

<sup>7</sup> 1 Tex. Admin. Code § 155.427; see *Southwestern Public Serv. Company v. Public Utility Comm'n*, 962 S.W.2d 207, 213 (Tex. App.—Austin 1998, pet. denied).

### III. BACKGROUND

Mr. Cooper has been a real estate appraiser since 1971.<sup>8</sup> He has held general real estate appraiser certificate number TX-1324523-G since December 30, 1992,<sup>9</sup> during which he has issued about 10,000 appraisal reports.<sup>10</sup> He has also held a real estate broker's license since at least July 15, 1988.<sup>11</sup> Over his four-decade career, Mr. Cooper has also developed real property in the Houston area and has served as an expert witness for the State of Texas, the City of Houston, Harris County, and for flood control entities.<sup>12</sup> Until Staff brought the complaint in this case, he had never been the subject of a complaint or disciplinary action.<sup>13</sup>

#### A. Contact with Jon Holverson

On January 28, 2012, Mr. Cooper received a telephone call from Jon Holverson, a person whom he did not know but who provided a reference through a mutual acquaintance.<sup>14</sup> In the call, Mr. Holverson told Mr. Cooper that he needed appraisal services on ten pieces of real estate (Properties) that he owned in the South Park area of Houston.<sup>15</sup> South Park is a low-income community located south of Loop 610 East, near the intersection of Belfort Avenue and Martin Luther King Boulevard.

Mr. Holverson explained that he owed a debt to a bank and that the debt was secured by a \$600,000 certificate of deposit. Mr. Holverson told Mr. Cooper that he wanted to obtain the

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<sup>8</sup> Resp. Ex. 1 at 709.

<sup>9</sup> Staff Ex. 1-A at 1.

<sup>10</sup> Transcript (Tr.) at 112-13.

<sup>11</sup> Staff Ex. 1-B at 2. The Texas Real Estate Commission's records are retained until only this date.

<sup>12</sup> Tr. at 616.

<sup>13</sup> Tr. at 237, 616.

<sup>14</sup> Tr. at 121-22.

<sup>15</sup> The first ten Properties were: 5303 Lyndhurst, 5223 Myrtlewood, 5406 Myrtlewood, 5222 Lyndhurst, 4825 Burma, 7009 Kassarine Pass, 5430 Westover, 5334 Myrtlewood, 4842 Pershing, and 7355 Guadalcanal. The number of Properties was later increased to eleven, with the addition of 5607 Belmark.

bank's approval for him to substitute the Properties as new collateral for the existing debt.<sup>16</sup> Mr. Holverson informed Mr. Cooper that he needed an appraisal that would prove to the bank that the Properties were worth about \$700,000. Mr. Cooper agreed to research the Properties' values and report his initial findings to Mr. Holverson.<sup>17</sup>

Later that same day, Mr. Holverson faxed Mr. Cooper a letter (Letter) in which he listed the addresses of the Properties.<sup>18</sup> In the Letter, Mr. Holverson wrote, "These are NOT mortgage appraisals and do NOT need to comply with FNMA [Federal National Mortgage Association] guidelines. These are special use appraisals to substantiate value of collateral."<sup>19</sup> He concluded the letter with the request: "Please take a look and let me know what you think."

Mr. Cooper began his research by visiting each of the Properties. He found that some were fire- or flood-damaged, and many were boarded up.<sup>20</sup> Of the ten Properties, only two were habitable. On February 2, 2012, Mr. Cooper called Mr. Holverson to report that the Properties were in poor condition and that, to "get in the neighborhood of \$70,000 [each], we would have to use an extraordinary assumption and a hypothetical condition to do the job."<sup>21</sup> As described in greater detail later in this analysis, an extraordinary assumption and a hypothetical condition are legitimate appraisal techniques by which an appraiser values a property based on proposed improvements.<sup>22</sup>

Mr. Cooper agreed to a \$2,500 fee and promised to complete the work by February 21, 2012.<sup>23</sup> During the telephone call, Mr. Cooper made handwritten notes (Notes) on the Letter about the terms to which he had agreed.

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<sup>16</sup> Staff Ex. 14 at 859.

<sup>17</sup> Staff Ex. 14 at 859-60.

<sup>18</sup> Staff Ex. 13 at 819.

<sup>19</sup> Staff Ex. 13 at 819.

<sup>20</sup> Staff Ex. 14 at 861.

<sup>21</sup> Staff Ex. 14 at 863.

<sup>22</sup> Staff Ex. 3 at 176 (Advisory Opinion 17).

<sup>23</sup> Staff Ex. 13 at 819, 826.

Mr. Cooper prepared the appraisal reports (Reports), and on February 21, 2012, Mr. Cooper and one of his sons delivered the Reports to Mr. Holverson's office.<sup>24</sup> Mr. Cooper received a check for the agreed fee.<sup>25</sup> Mr. Holverson later added another address in South Park to the original list of Properties, and Mr. Cooper performed the appraisal of that address for an additional fee of \$250. In April 2012, Mr. Cooper received a second check from Mr. Holverson, after which the two men had no further business dealings or contacts of any kind.<sup>26</sup>

## **B. Mr. Holverson's Legal Problems**

In his two telephone conversations with Mr. Cooper, Mr. Holverson failed to disclose five important facts: (1) the federal government had recently indicted him for criminal fraud for making false claims to the Small Business Administration about alleged hurricane damage;<sup>27</sup> (2) he had pleaded guilty to the criminal charges;<sup>28</sup> (3) the federal court had convicted him;<sup>29</sup> (4) he was awaiting sentencing to a federal correctional facility for a period of 84 to 102 months;<sup>30</sup> and (5) he intended to use Mr. Cooper's Reports as evidence in his sentencing hearing to reduce the length of his sentence by proving that the losses to the Small Business Administration were not as significant as the government had claimed.<sup>31</sup> To do that, he needed to show that the Properties' total appraised value was about \$700,000.<sup>32</sup> Mr. Cooper knew about none of this.

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<sup>24</sup> Staff Ex. 14 at 866.

<sup>25</sup> Staff Ex. 13 at 821.

<sup>26</sup> Staff Ex. 13 at 823.

<sup>27</sup> Tr. at 561.

<sup>28</sup> Tr. at 225.

<sup>29</sup> Tr. at 67.

<sup>30</sup> Tr. at 225.

<sup>31</sup> Tr. at 225.

<sup>32</sup> Tr. at 67, 564.

Although Mr. Holverson's legal problems were serious, they had not yet reached their apex. After Mr. Cooper delivered his Reports to Mr. Holverson on February 21, 2012, Mr. Holverson altered the Reports before submitting them to the federal sentencing officials. On each Report, Mr. Holverson removed the photographs, the written disclosure about the use of an extraordinary assumption and hypothetical condition, and the text describing the current condition of each Property. Mr. Holverson's lawyer delivered the altered reports to the federal sentencing officials.<sup>33</sup>

The sentencing officials challenged the Reports' valuations. The federal prosecuting attorney filed a motion to revoke Mr. Holverson's bail bond.<sup>34</sup> The federal judge scheduled a hearing on the motion for June 26, 2012.

In preparation for the hearing, the government's prosecution team dispatched special agents of the Small Business Administration, including Special Agent Robert Mensinger, to interview Mr. Cooper.<sup>35</sup> The special agents wanted to learn about Mr. Cooper's relation to Mr. Holverson, including the terms of their agreements and the assumptions that Mr. Cooper had used in preparing the Reports. Mr. Cooper met with Special Agent Mensinger and other agents. He agreed to cooperate. He answered their questions and provided them with copies of the original Reports, including the photos and paragraphs that Mr. Holverson had deleted.

### **C. Statements by Mr. Cooper**

Over the next several weeks, Special Agent Mensinger required Mr. Cooper to meet many times with him, reviewing repeatedly the same information. On May 10, 2012, Special Agent Mensinger drafted a handwritten statement (Statement) for Mr. Cooper to sign, using a Houston Police Department affidavit form.<sup>36</sup> Mr. Cooper requested the right to prepare his own version of a written statement, and Special Agent Mensinger refused his request. Mr. Cooper

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<sup>33</sup> Tr. at 589.

<sup>34</sup> Tr. at 68.

<sup>35</sup> Tr. at 315.

<sup>36</sup> Staff Ex. 13 at 825-27.

eventually signed the 11-sentence Statement, and his signing was witnessed by two of the other special agents. The document included no notary's seal or signature.<sup>37</sup>

At the SOAH hearing, Mr. Cooper testified that he disagreed with the accuracy of many of the sentences in the Statement.<sup>38</sup> He explained that he had signed the Statement only because he had become tired of being repeatedly asked the same questions. Mr. Cooper testified that he believed that the special agents were not interested in describing truthfully the information that he was providing them. Mr. Cooper testified that he agreed to sign the Statement only if it was unsworn.<sup>39</sup>

On May 15, 2012, Special Agent Mensinger prepared a Memorandum of Interview (Memorandum) summarizing his interviews with Mr. Cooper. The Memorandum reviewed the agent's conclusions about Mr. Cooper's valuations and motivations in preparing the Reports.<sup>40</sup> The Memorandum was not prepared as an affidavit, either as the purported statement of Special Agent Mensinger or of Mr. Cooper. The Memorandum summarized not only Mr. Cooper's alleged statements but also the actions allegedly taken and statements made by others.<sup>41</sup> The Memorandum did not state that Mr. Cooper had been shown the Memorandum, had been given the opportunity to read the document, or had agreed with the statements that had been attributed to him. The Memorandum was not signed by Special Agent Mensinger or by anyone else. As with the Statement, Mr. Cooper challenged the accuracy of many of the sentences in the Memorandum.

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<sup>37</sup> At the SOAH hearing, Mr. Cooper asserted that the lack of a notarization precluded the parties from treating the Statement as an affidavit. Staff did not dispute Mr. Cooper's contention.

<sup>38</sup> Tr. at 60.

<sup>39</sup> Tr. at 156. At the hearing, Staff objected to Mr. Cooper's announcement that he intended to present evidence that he had signed the Statement under duress. The Act requires a respondent to file an answer, including "any explanation or other statement of mitigating circumstances . . ." Tex. Occ. Code § 1103.505(2). Staff argued that it would have called Special Agent Mensinger as a witness to rebut the facts supporting the affirmative defense if Staff had known that Mr. Cooper intended to raise duress as an affirmative defense. The ALJ sustained Staff's objection, noting that Mr. Cooper had filed an amended answer on March 19, 2014, only five days before the convening of the SOAH hearing on the merits, without the affirmative defense. At the hearing, Mr. Cooper agreed to abandon the affirmative defense. Tr. at 148.

<sup>40</sup> Staff Ex. 13 at 814-17.

<sup>41</sup> Staff Ex. 13 at 815.

On June 26, 2012, United States District Judge Melissa Harmon held the bond revocation hearing. The prosecution and the defense examined Mr. Cooper under oath. The testimony in that hearing was transcribed (Federal Transcript) and offered by Staff in evidence at the SOAH hearing.<sup>42</sup> Mr. Cooper offered in evidence at the SOAH hearing a copy of one defense exhibit that was part of the Federal Transcript, a May 22, 2012 sworn affidavit (Affidavit) signed by Mr. Cooper.<sup>43</sup> The Affidavit summarized the facts surrounding Mr. Cooper's relation with Mr. Holverson, beginning with Mr. Holverson's Letter, his only written communication with Mr. Cooper.<sup>44</sup>

#### **D. Referral to Board**

After Special Agent Mensinger began his investigation into Mr. Cooper's relation to Mr. Holverson, he contacted Staff for help in understanding the scope of a certified real estate appraiser's professional obligations.<sup>45</sup> Staff assigned two investigators, Robin Forrester, Jr., and John (Jack) McComb, to review Mr. Cooper's work. Like Mr. Cooper, each Staff investigator holds a certification as a general real estate appraiser and has been an appraiser for 40 or more years. In addition, Mr. McComb has experience in developing Houston-area subdivisions and has worked for the Federal Deposit Insurance Corporation as part of the Resolution Trust Corporation's activities.<sup>46</sup>

Mr. Forrester and Mr. McComb sent Mr. Cooper a set of questionnaires (Questionnaires) about the Reports, and Mr. Cooper responded.<sup>47</sup> After reviewing Mr. Cooper's documents, Mr. Forrester and Mr. McComb recommended that Staff pursue disciplinary action against

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<sup>42</sup> Staff Ex. 14 at 856.

<sup>43</sup> Resp. Ex. 1 at 709-10.

<sup>44</sup> Resp. Ex. 1 at 709.

<sup>45</sup> Tr. at 313.

<sup>46</sup> Tr. at 209, 311.

<sup>47</sup> Staff Ex. 5.

Mr. Cooper, including the revocation of his general real estate appraiser certificate.<sup>48</sup> On October 10, 2013, Staff filed with SOAH an Original Statement of Charges, a notice of hearing, and a Request to Refer Case form.

#### IV. STAFF'S ALLEGATIONS

##### A. First Charge

Staff alleged that Mr. Cooper failed to comply with the provisions of USPAP by:<sup>49</sup>

- performing assignments with bias and reaching pre-determined, inflated values on purpose, knowing the values were not truthful and were inflated to reach pre-determined amounts;<sup>50</sup>
- failing to perform the scope of work necessary to develop credible assignment results and disclose that scope of work in the report and predetermining his scope of work to facilitate reaching the pre-determined values agreed upon with his client;<sup>51</sup>
- failing to summarize his rationale for determination of the Properties' highest and best use;<sup>52</sup>
- failing to summarize and analyze his rationale for his site value determination and failing to employ recognized methods and techniques;<sup>53</sup>
- failing to collect, verify, analyze, and reconcile accrued depreciation, and misrepresenting the true condition of the Properties and the actual depreciation that should have been applied to them, given their dilapidated condition;<sup>54</sup>

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<sup>48</sup> Staff Ex. 7 at 748. Both Mr. Forrester and Mr. McComb reviewed Mr. Cooper's responses. Only Mr. McComb reviewed the Reports.

<sup>49</sup> Tex. Occ. Code § 1103.405; 22 Tex. Admin. Code §§ 153.20(a) and 155.1.

<sup>50</sup> Staff Ex. 3 at 43 (Ethics Rule; Conduct section; first, third, and sixth bullets.)

<sup>51</sup> Staff Ex. 3 at 49 (Scope of Work Rule, items 2 and 3; *id.* at 54 (USPAP Standards Rule 1-2(h)). Staff also cited to USPAP Standard 2-2(b)(v)(ii). No subsection of Standard 2 uses that section number, and nothing in subsections (v), (ii), or (vii) applies to this allegation.

<sup>52</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-3(b)); *id.* at 63 (USPAP Standards Rule 2-2(b)(ix)).

<sup>53</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-4(b)(i)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>54</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-4(b)(iii)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

- failing to employ recognized methods and techniques correctly in the cost approach;<sup>55</sup>
- failing to collect, verify, analyze, and reconcile comparable sales data adequately, and failing to employ recognized methods and techniques in his sales comparison approach;<sup>56</sup>
- failing to provide supporting documentation or reasoning and a summary of analysis in his sales comparison approach;<sup>57</sup>
- generally failing to use appropriate properties as comparable sales by: (1) going outside the immediate neighborhood area or subdivision to other areas that were further away from Properties, even though sufficient, more similar sales were available in the immediate area; and (2) selecting sales which were dissimilar in salient market-recognized features;<sup>58</sup>
- failing to make appropriate adjustments (or making inappropriate adjustments) to the sales he used;<sup>59</sup>
- failing to discuss his analysis and reasoning behind the adjustments he made or elected not to make;<sup>60</sup>
- generally failing to use objective market data that, if it had been used, would have resulted in significantly lower value conclusions;<sup>61</sup>
- failing to reconcile the quality and quantity of the data within the approaches to value or the applicability of the approaches;<sup>62</sup>
- misrepresenting and omitting involvement of another appraiser in conducting the appraisals;<sup>63</sup> and

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<sup>55</sup> Staff Ex. 3 at 52 (USPAP Standards Rule 1-1(a)); *id.* at 55 (USPAP Standards Rule 1-4(b)).

<sup>56</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>57</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>58</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>59</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>60</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>61</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>62</sup> Staff Ex. 3 at 56 (USPAP Standards Rule 1-6(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>63</sup> Staff Ex. 3 at 43 (USPAP Ethics Rule; Conduct section); *id.* at 58 (USPAP Standards Rule 2-1(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)); *id.* at 63 (USPAP Standards Rule 2-2(b)(ix)); *id.* at 65 (USPAP Standards Rule 2-3).

- producing misleading and predetermined appraisal reports containing substantial errors of omission or commission by failing to employ correct methods and techniques, resulting in appraisal reports that were not credible or reliable.<sup>64</sup>

## **B. Second Charge**

Staff alleged that Mr. Cooper made material misrepresentations and omissions of material fact in his appraisal of the Properties.<sup>65</sup>

## **C. Third Charge**

Staff alleged that Mr. Cooper accepted appraisal assignments, including receiving payment for and producing appraisal reports, contingent on his use of predetermined and inflated values. Staff alleged that the false values were based on Mr. Cooper's agreements with Mr. Holverson before Mr. Cooper actually conducted the appraisals or the necessary research.<sup>66</sup>

## **V. DISCUSSION**

Mr. Cooper disputed each of Staff's Charges, and each Charge will be analyzed in the next section of this Proposal for Decision. However, to reach conclusions about the Charges, the ALJ must first determine four issues about the facts that underlie each of the Charges. First, Staff asserted that Mr. Cooper entered into agreements with Mr. Holverson to predetermine and inflate the Properties' values. Second, Staff asserted that Mr. Cooper's valuations were predetermined and inflated, without respect to any agreements that Mr. Cooper and Mr. Holverson may have made. Third, Staff asserted that Mr. Cooper's appraisal methods were improper. Fourth, Staff asserted that an intended user would have been misled by the Reports. Mr. Cooper disputed each of Staff's four factual contentions. This part of the analysis will begin by determining which, if any, of the factual contentions are supported by the evidence or law.

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<sup>64</sup> Staff Ex. 3 at 52 (USPAP Standards Rule 1-1(a),(b),(c)); *id.* at 58 (USPAP Standards Rule 2-1(a)).

<sup>65</sup> 22 Tex. Admin. Code § 153.20(a)(12).

<sup>66</sup> 22 Tex. Admin. Code § 153.20(a)(10), (11).

**A. Issue 1: Did Mr. Cooper Agree to Predetermine or Inflate Values?**

**1. First Telephone Discussion**

Mr. Cooper's agreements with Mr. Holverson were exclusively oral. Because Mr. Holverson was in prison, Mr. Cooper was the only person available to testify at SOAH with direct knowledge about their agreements.

Mr. Cooper testified that, during his first telephone conversation with Mr. Holverson on January 28, 2012, Mr. Holverson: (1) said that he needed appraisals on the Properties as proof of the value of substitute collateral on a loan; (2) asked Mr. Cooper to take a look at the Properties; (3) asked Mr. Cooper if he were willing to take the assignment; and (4) asked Mr. Cooper to quote a fee for his services.<sup>67</sup> Mr. Cooper testified that he agreed to look at the Properties, call Mr. Holverson when he was finished with his initial review, and give Mr. Holverson his thoughts and a fee proposal. According to Mr. Cooper, the conversation did not include an agreement to predetermine or to inflate the values of the Properties.

Five of the exhibits admitted in evidence provided some information about Mr. Cooper's statements and actions in response to his two telephone conversations with Mr. Holverson. The exhibits are the only documentary evidence that offer confirming or negating information about the alleged agreements between the two men.

Date	Title of Document	Exhibit No.	Who Prepared?	Who Signed?	Was the Document Sworn?	Subject to Cross-Exam?
01-28-12 (02-12-12)	Letter (Notes on Letter)	Pet. Ex. 13 at 819	Mr. Cooper	Unsigned	No	No
05-10-12	Statement	Pet. Ex. 13 at 825-27	Special Agent Mensinger	Mr. Cooper	No	No
05-15-12	Memorandum	Pet. Ex. 13 at 814-17	Special Agent Mensinger	Not signed	No	No

<sup>67</sup> Tr. at 123.

Date	Title of Document	Exhibit No.	Who Prepared?	Who Signed?	Was the Document Sworn?	Subject to Cross-Exam?
05-22-12	Affidavit	Resp. Ex. 1 at 709-10	Defense counsel <sup>68</sup>	Mr. Cooper	Yes	No
06-26-12	Federal Transcript	Pet. Ex. 14 at 856	Court reporter	Court reporter	Yes	Yes

The text of the Letter confirmed that Mr. Holverson asked Mr. Cooper to examine the Properties and to “let me know what you think.”<sup>69</sup> Beyond that limited term, the Letter reflected no other terms about an agreement. Nothing in the Letter conflicted with Mr. Cooper’s testimony.

The Statement recounted Mr. Holverson’s statements during the first telephone call about the fictitious \$600,000 certificate of deposit and his desire that the Properties be valued at \$700,000. The rest of the Statement addressed the events that happened after the January 28, 2012 initial conversation between Mr. Holverson and Mr. Cooper.<sup>70</sup> As with the Letter, the Statement provided little information about an agreement.

The Memorandum discussed the initial conversation between Mr. Holverson and Mr. Cooper, including Mr. Holverson’s expression of interest in replacing the fictitious certificate of deposit with new collateral. The Memorandum repeated Special Agent Mensinger’s understanding that Mr. Cooper would not have gotten the job if the appraisals had not reflected an aggregate value of the Properties at \$700,000.<sup>71</sup> The Memorandum repeats most of the information provided in the Statement.

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<sup>68</sup> The record does not disclose the author of the Affidavit. However, it was offered in the federal bond revocation hearing by defense counsel as part of Mr. Cooper’s testimony.

<sup>69</sup> Staff Ex. 13 at 819.

<sup>70</sup> Staff Ex. 13 at 825.

<sup>71</sup> Staff Ex. 13 at 816.

Although the May 22, 2012 Affidavit contained a series of statements about the conditions under which Mr. Cooper negotiated with Mr. Holverson,<sup>72</sup> the document provided no information about the terms of an agreement between Mr. Cooper and Mr. Holverson. The Affidavit mentions the Letter, but it does not discuss the telephone calls.

The Federal Transcript reflects Mr. Cooper's statement that in the initial conversation, he understood that Mr. Holverson wanted him to appraise the Properties at about \$70,000 each "in order for him [Mr. Holverson] to do business with you [Mr. Cooper]." In that testimony, Mr. Cooper made clear that he agreed to perform the appraisals but only after he was able to conduct his inspections.<sup>73</sup> These documents confirm Mr. Cooper's testimony at SOAH that he agreed to inspect the Properties and report his initial findings to Mr. Holverson before producing any appraisal reports.<sup>74</sup>

## 2. Second Telephone Discussion

Mr. Cooper stated that in his second telephone discussion, Mr. Holverson restated his need to replace collateral worth \$600,000. Mr. Cooper also denied that Mr. Holverson told him that the average value of the Properties had to be about \$70,000.<sup>75</sup> When Mr. Cooper's attorney asked him about the source of allegation, Mr. Cooper asserted that it was "the agent who wrote up his statement for the courts . . . ,"<sup>76</sup> meaning Special Agent Mensinger.

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<sup>72</sup> The language was:

Mr. Holverson did not threaten me or offer more money to inflate the appraisals. He did not try to intimidate me. He did not offer me any incentive to inflate or falsify my appraisal. I did not overvalue the properties. Mr. Holverson did not request or direct me to overvalue the properties.

Resp. Ex. 1 at 709.

<sup>73</sup> Staff Ex. 14 at 859-60, 877.

<sup>74</sup> Staff Ex. 14 at 859-60.

<sup>75</sup> Q. Now, did he say that he needed the properties to be in the range – he needed you to do an appraisal report that stipulated the properties had to be \$70,000?

A. No.

Tr. at 126.

<sup>76</sup> Tr. at 127.

At the SOAH hearing, Mr. Cooper's attorney asked him whether Mr. Holverson had told Mr. Cooper that Mr. Holverson intended to improve the Properties.<sup>77</sup> Mr. Cooper responded that Mr. Holverson had made that assertion in their second telephone discussion:

Yes. Well, when I got back with him, I told him, I said, Listen, all of these properties are in poor condition. The only way that these properties are going to appraise anywhere in this neighborhood is that all of these properties are going to have to be brought up to good or average condition.<sup>78</sup>

Later, Mr. Cooper's attorney asked again about Mr. Holverson's statements about improving the Properties:

Q. And in your subsequent conversation with Mr. Holverson when he requested that — *well, initially he told you he was going to improve the properties. Is that correct?*

A. Yes.

Q. He didn't say that I want you to value [sic] the properties based on as-is condition?

A. Did not, and I didn't so state in my 10 reports. I did not do an as-is.<sup>79</sup>

Mr. Cooper then testified that he and Mr. Holverson discussed the concept of a hypothetical condition and the steps that would be required for its use.<sup>80</sup> Mr. Cooper's attorney then asked him:

Q. All right. So once again, you said that he needed a valuation in the neighborhood of 70,000, and you agreed to that. Did you, in fact, agree to the [\$]70,000 to get paid?

A. No.

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<sup>77</sup> Tr. at 128.

<sup>78</sup> Tr. at 128.

<sup>79</sup> Tr. at 132. (Emphasis supplied.)

<sup>80</sup> Tr. at 132.

- Q. What did you agree to?
- A. I agreed to go out and do the appraisals using the hypothetical extraordinary conditions and let the numbers fall where they may. That's what I did.
- Q. Now, you said that if you didn't come up to [\$]70,000, that there was going to be – you weren't going to be able to get the job from Mr. Holverson?
- A. Yes, ma'am.<sup>81</sup>

Mr. Cooper then explained that he was not concerned about getting the job and that he “would have been free to walk away” if his appraisals revealed that he could not help Mr. Holverson achieve his target.<sup>82</sup> In summary, according to Mr. Cooper's oral testimony, the agreements that he reached in the second telephone conversation were that: (1) the fee for the Reports would be \$2,500; (2) the deadline for Mr. Cooper's submission of the Reports would be February 21, 2012; (3) Mr. Cooper would use a hypothetical condition in making his appraisals, based on Mr. Holverson's stated intention to upgrade the Properties; and (4) if Mr. Cooper's Reports failed to produce an aggregate value of about \$700,000, Mr. Cooper could abandon the job without consequence.

The five exhibits supported Mr. Cooper's version of the story. In the Notes, Mr. Cooper wrote: “2-2-12 2500 AGREED TO PRICE AND TO DO APP. TURN BACK BY 2-21-12.”<sup>83</sup> The text does not conflict with his SOAH testimony. In the Statement, few of the eleven sentences relate to the terms of any agreements between Mr. Cooper and Mr. Holverson. In the Memorandum, Special Agent Mensinger summarized Mr. Cooper's interview in substantially the same language as that used in the Statement.<sup>84</sup> Mr. Cooper testified at the SOAH hearing that he

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<sup>81</sup> Tr. at 133-34.

<sup>82</sup> Tr. at 134.

<sup>83</sup> Staff Ex. 13 at 819.

<sup>84</sup> Staff Ex. 13 at 816.

disagreed with most of the sentences used in the Statement and in the Memorandum because the special agents had fabricated his alleged statements to them.<sup>85</sup>

Finally, in the Federal Transcript, Mr. Cooper stated that he had told Mr. Holverson that to “get in the neighborhood of \$70,000, we would have to use an extraordinary assumption and a hypothetical condition to do the job.”<sup>86</sup> This language reflected with some precision Mr. Cooper’s testimony at the SOAH hearing that he had told Mr. Holverson on February 2, 2012, that “to get in the neighborhood of \$70,000, we’re going to have to use this hypothetical condition” and that the Properties “would have to be brought up to average condition.”<sup>87</sup>

### 3. Analysis

The ALJ finds scant evidentiary support for Staff’s allegation that Mr. Cooper agreed to predetermine the values of the Properties or that he agreed to inflate their values. Although Mr. Cooper’s signed Statement and Special Agent Mensinger’s Memorandum provide some evidence that Mr. Cooper acceded to Mr. Holverson’s requests for a \$700,000 valuation, there was sufficient evidence to show that Mr. Cooper agreed only to take into account Mr. Holverson’s target number rather to reach the number that Mr. Holverson wanted.

#### B. Issue 2: Did Mr. Cooper Unilaterally Predetermine or Inflate Values?

For Staff to prove that Mr. Cooper used predetermined values, Staff’s burden was to show that Mr. Cooper’s determination of the amount preceded his evaluation of the Properties’ values. However, for Staff to prove that Mr. Cooper reached or used *inflated* values, Staff’s burden was to show that Mr. Cooper’s appraised values were greater than the appraised values that a reasonable appraiser would have calculated.

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<sup>85</sup> Tr. at 73.

<sup>86</sup> Staff Ex. 14 at 862-63.

<sup>87</sup> Tr. at 649.

## 1. Predetermination of the Value of the Properties

Mr. Cooper's testimony at SOAH on this subject was confusing and sometimes contradictory. But the core of his oral defense was that he did not determine the value of the Properties before he visited each Property and later examined comparable Multi-Listing Service (MLS) data and other information. Mr. Holverson's request in the Letter, "Please take a look and let me know what you think," reflects Mr. Cooper's version of the story.<sup>88</sup> Specifically, Mr. Cooper told Mr. Holverson that he could render an opinion about the values only after looking at the Properties. Nothing in the Notes identifies a value of the Properties, whether predetermined or otherwise.

The Statement does not include Mr. Cooper's admission that he used a predetermined valuation.<sup>89</sup> The ALJ gives the Memorandum little evidentiary weight because it is an unsigned and unsworn written statement prepared by a non-witness who was not called to testify. In determining the adjudicative facts, including who said what to whom, the ALJ declines to accept the Memorandum as proof that Mr. Cooper knowingly admitted to Special Agent Mensinger that he had used a predetermined value of the Properties.<sup>90</sup> More significantly, the Memorandum includes no outright statement by Special Agent Mensinger that Mr. Cooper admitted to predetermining the value of the Properties.

As with the absence of proof that Mr. Cooper had *agreed* to predetermine values, the proof similarly fails to support the conclusion that Mr. Cooper unilaterally predetermined the Properties' values.

## 2. Inflation of the Value of the Properties

In the Statement, Mr. Cooper used these words: "I inflated the value of most of the properties that were vacant based on the assumption that these properties were going to be

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<sup>88</sup> Staff Ex. 13 at 819.

<sup>89</sup> Staff Ex. 13 at 826.

<sup>90</sup> See, *Hawkins v. Cmty. Health Choice, Inc.*, 127 S.W.3d 322, 325 (Tex. App. Austin—2004, no pet.); *Flores v. Employees Retirement System*, 74 S.W.3d 532, 540 (Tex. App.—Austin 2002, pet. denied).

brought up to average condition.”<sup>91</sup> Staff contended that the language constituted Mr. Cooper’s admission that he violated the law because he wanted to get the job. Mr. Forrester contended that the sentence in the Statement (and similar language in the Memorandum) constituted Mr. Cooper’s “confessions.”<sup>92</sup>

Mr. Cooper argued that his use of the word “inflated” reflected his intention to demonstrate the Properties’ increased value as the result of Mr. Holverson’s hypothetical improvements. Mr. Cooper argued that his use of the hypothetical condition and extraordinary assumption necessarily reflected an increase, meaning an appropriate inflation of the value of the Properties. In support of his argument, Mr. Cooper pointed out that he had disagreed with almost every sentence in the Statement, but not this one:

After driving by the properties, and pulling up the square footage on each property, and after looking at comparable properties on MLS with similar square footages[,] I told Holverson I could get him to the \$700,000.00 range if the properties were brought up to average condition.<sup>93</sup>

Mr. Cooper asserted that the words “I could get him to the \$700,000 range” was another way of asserting his intention to properly inflate the values to match the Properties’ hypothetically remodeled conditions.

The Letter and the Notes include nothing about property values, whether inflated or otherwise. In the Affidavit, Mr. Cooper stated that the special agents “asked if I had inflated the values of the [P]roperties[,] and I told them that I had not.”<sup>94</sup> In the Federal Transcript, Mr. Cooper testified that, in response to Mr. Holverson’s request that he promise to deliver a \$70,000 valuation for each of the Properties, Mr. Cooper told him that he first “had to do my inspections.”<sup>95</sup> Similarly, on cross-examination in that proceeding, Mr. Cooper testified that, in

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<sup>91</sup> Staff Ex. 13 at 825-26. (Emphasis supplied.)

<sup>92</sup> Tr. at 248-49.

<sup>93</sup> Staff Ex. 13 at 825.

<sup>94</sup> Resp. Ex. 1 at 709.

<sup>95</sup> Staff Ex. 14 at 877.

his work as an appraiser, he had paid no attention to persons who have attempted to hire him “to get to this number or that number.”<sup>96</sup>

On balance, the preponderance of the evidence reviewed thus far does not support a finding that Mr. Cooper formed an intention to inflate the appraised value of the Properties before he completed his Reports. However, as discussed in the analysis that follows, the preponderance of the evidence reflects that the values that he reached in his appraisals were greater than the appraised values that a reasonable appraiser would have calculated. This evidence was presented by Mr. McComb in his desk reviews of Mr. Cooper’s sales comparison approach and cost comparison approach.

**a. Sales Comparison Approach**

Mr. McComb demonstrated in his expert report that the properties picked by Mr. Cooper for comparison purposes were not legitimate choices because of their disparate characteristics, including location, date of sale, and condition.<sup>97</sup> In addition, Mr. McComb also proved that Mr. Cooper failed to provide supporting information for his use of the hypothetical condition.

*Location*

Mr. McComb’s evidence showed that Mr. Cooper relied on the same set of three comparable sales properties in the Reports he prepared for the first eight Properties.<sup>98</sup> Mr. McComb noted that the market data from the MLS showed that the buyers and sellers of houses in average condition in the South Park neighborhood paid an average of \$37,068 per property. The average value of the Properties as appraised by Mr. Cooper was \$77,550, more than twice the mean.<sup>99</sup>

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<sup>96</sup> Staff Ex. 14 at 878.

<sup>97</sup> Tr. at 336.

<sup>98</sup> The eight Properties were: 5303 Lyndhurst, 5223 Myrtlewood, 5406 Myrtlewood, 5222 Lyndhurst, 4825 Burma, 7009 Kassarine Pass, 5430 Westover, and 5607 Beimark. Mr. McComb did not include 5334 Myrtlewood in his analysis.

<sup>99</sup> Tr. 349.

Mr. McComb also concluded that Mr. Cooper's comparable sales used for the first six Properties were chosen from the area south of Bellfort Avenue, an area undergoing gentrification and experiencing an increased number of sales and increases in property value.<sup>100</sup> Mr. McComb asserted that these properties were not comparable to the first six Properties because they were north of Bellfort Avenue, a different market area.

For the ninth and tenth Properties, 4842 Pershing and 7355 Guadalcanal, Mr. McComb agreed that Mr. Cooper properly selected properties north of Bellfort Avenue, within the same market area as the Properties. However, Mr. McComb concluded that a reasonable sales price for homes about the same size as the two Properties was in the range of \$32,000 and \$55,000. Instead, Mr. Cooper had appraised the two Properties significantly higher than the upper end of the range, at \$75,000 and \$77,500.<sup>101</sup>

Mr. Cooper disputed the existence of most of these differences, beginning with Mr. McComb's assertion that property values or neighborhood characteristics differ on the north and south sides of Bellfort. Mr. Cooper asserted that the comparables were a short distance, about six or seven blocks, from the Properties. Mr. Cooper's proof suffered from the lack of an independent expert witness. As a consequence, Mr. Cooper testified not only about how he had prepared the Reports but also why he believed that his methodology was supported by USPAP. Although Mr. Cooper was not precluded from presenting his own expert testimony, Mr. Cooper was unable to provide sufficient evidence to explain how his hypothetical values managed to exceed the average MLS sales prices by almost 100%.

For much of Mr. Cooper's testimony, he relied on his familiarity with the real estate market of South Park neighborhood. Mr. McComb did not share Mr. Cooper's long-term knowledge of the area. Nonetheless, Mr. McComb's testimony reflected a careful analysis that Mr. Cooper's cross-examination was unable to pick apart. The result was a conflict between

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<sup>100</sup> Tr. at 339-40.

<sup>101</sup> Tr. at 749.

Mr. McComb's data-based analysis and Mr. Cooper's historical knowledge. The preponderance of the evidence supported Mr. McComb's position.

*Date of Sale*

Mr. McCombs also criticized Mr. Cooper's sales comparisons on some of the Properties because of the age of the sales materials on which he relied. For the first six Properties, Mr. McComb showed that Mr. Cooper had used sales figures on two of the comparables that were beyond the one-year preferred time period.<sup>102</sup> One of the two comparable properties had been sold 17 months before the Reports had been issued, and the second was more than 24 months old when Mr. Cooper relied on its sales data. On the ninth and tenth Properties, one sale was over 15 months old and another was over 20 months old. For these properties, the sales price for homes about the same size was between \$18,000 and \$54,900. Instead, Mr. Cooper had appraised the two Properties somewhat higher than the upper end of the range, at \$58,000 and \$60,800.

Mr. Cooper asserted that using a two-year-old sales price to establish value is a valid assumption, especially in a market that is inelastic over time. Mr. Cooper also argued that his use of historical sale figures of \$27,000 to \$30,000 per Property was well within the bounds of reason in reaching hypothetically rehabilitated sales price figures of \$70,000 to \$80,000.

Mr. Cooper's decision not to call an expert witness did not work in his favor. An independent expert might have provided a better data set and analysis about the alleged stability of the real estate market and the availability of defensible comparables. In the absence of that independent expert testimony, Mr. Cooper served as both respondent and expert. As with his defense of the arguments about the location of his comparables, his defense of the age of the sales on which he relied was based more on his familiarity with the market than on demonstrable information. The preponderance of the evidence supported Staff's position.

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<sup>102</sup> Tr. at 353.

*Condition*

Mr. McComb raised criticisms about Mr. Cooper's use of the term "average condition." Mr. Cooper had used the term in the Reports to describe the quality to which the Properties allegedly would be raised, based on his description of the overall quality of the South Park neighborhood.

Mr. Cooper's argument about the goal of raising the condition of the Properties to "average" was not supported by evidence. In the following quote, Mr. Cooper explained his reasons for considering the entire South Park neighborhood an "average condition" community:

Counsel, I think what we're missing here, or you and I are not together, is that if you go to South Park, *that is an average condition neighborhood*, period, because of what's in the properties when they was built the first time. And all you're doing now is bring them back to the way they was [sic]. *This is not an upscale neighborhood of no sort. It's not a good neighborhood. It's not an excellent neighborhood. Nothing like that.* You're trying to make a stretch that you can't get to.<sup>103</sup>

Mr. McComb pointed out that when Mr. Cooper selected properties for purposes of comparison, Mr. Cooper had relied on residences that had been brought to like-new status: new roof, new sheetrock, new floor, new kitchen, new bathroom, new paint, and similar improvements. Mr. McComb asserted that Mr. Cooper's use of the term "average condition" in the Reports was false because Mr. Cooper generated a sales figure that was far higher than the value of an average-condition home.<sup>104</sup> In contrast, Mr. McComb pointed out, the term "average condition" is properly used to describe the quality of the maintenance or upkeep of a property, and does not refer to the quality of the construction or the specifications to which a property has been built.

That debate continued throughout the hearing, with Mr. Cooper defending the notion that the term "average condition" may reasonably describe the quality of a building's original

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<sup>103</sup> Tr. at 632. (Emphasis added.)

<sup>104</sup> Tr. at 364.

construction or a neighborhood's overall status, and Staff contending that the term applies solely to the quality of maintenance and upkeep. No provision of the Act defines "average condition," and the term is not defined in the Board's rules. The parties identified no part of USPAP that clarifies the issue. No Texas appellate decision has addressed the question, but at least six non-Texas cases have mentioned the issue in dicta. For five of those cases, a property's "condition" refers to the manner in which it has been maintained.<sup>105</sup> For the sixth case, the Alabama Court of Civil Appeals held that a "fair, average, good, or some other similar designation" in a sales comparison approach may refer to the "quality of construction," where the category is properly labeled.<sup>106</sup>

The ALJ concludes that Mr. Cooper's use of the term "average condition" could reasonably have been used to refer to the quality of construction if the language of the Reports had clearly identified that category. Since it did not, the term refers to the manner in which a property has been maintained. The preponderance of the evidence supports Staff's position.

#### *Absence of Supporting Data for Hypothetical Condition*

Mr. McComb also testified that Mr. Cooper's Reports failed to state the types of repairs, the cost of labor or materials, or the quality of the materials to be used that would be required to rehabilitate the Properties.<sup>107</sup> The inclusion of these types of data is part of the USPAP requirement when an appraiser relies on a hypothetical condition and extraordinary assumption.<sup>108</sup>

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<sup>105</sup> *Textron Financial-New Jersey Inc. v. Herring Land Group, LLC*, 2011 U.S. Dist. LEXIS 70132 (D.N.J. June 29, 2011), *aff'd*, *GF Princeton, L.L.C. v. Herring Land Group, L.L.C.*, 518 Fed. Appx. 108, 2013 U.S. App. LEXIS 4027 (3d Cir. N.J. 2013); *Luessenhop v. United States*, 2006 U.S. Dist. LEXIS 22445, 18-19 (E.D. Va. Mar. 28, 2006), *aff'd*, *United States v. Luessenhop*, 258 Fed. Appx. 597, 2007 U.S. App. LEXIS 29366 (4th Cir. Va. 2007); *Millennium Real Estate Inv., LLC v. Assessor Benton County, Indiana*, 979 N.E.2d 192, 197 (Ind. Tax Ct. 2012) *Beechwood v. City of New Haven*, 2004 Conn. Super. LEXIS 2240 (Conn. Super. Ct. Aug. 11, 2004); *Kooshtard Prop. VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 506 (Ind. Tax Ct. 2005).

<sup>106</sup> *Ala. Real Estate Appraisers Bd. v. Smith*, 108 So. 3d 523, 526-527 (Ala. Civ. App. 2012).

<sup>107</sup> Tr. at 328.

<sup>108</sup> See the analysis about Standard 2 in Section V.D of this Proposal for Decision.

Mr. Cooper offered little persuasive evidence about his reasons for not having the cost information from the Marshall & Swift Residential Cost Handbook in his work file. Near the end of the hearing, Mr. Cooper offered in evidence some pages from the Marshall & Swift materials. Staff challenged the exhibit's authenticity, pointing out that the pages were from a later edition of the Marshall & Swift Handbook—materials that could not have been available to Mr. Cooper when he performed the appraisals. Mr. Cooper asserted that the exhibits were offered to show the types of information on which he had relied. This was less than persuasive evidence, and the ALJ finds that Mr. Cooper did not comply with this requirement of USPAP.

**b. Cost Comparison Approach**

In Staff Exhibit No. 5, Mr. Cooper's ten Reports listed these costs per square foot and depreciated values for the ten Properties:

Property	Replacement Cost Per Square Foot	Depreciation
5303 Lyndhurst	\$69.11	29%
5223 Myrtlewood	\$69.11	35%
5406 Myrtlewood	\$69.11	35%
5222 Lyndhurst	\$69.11	35%
4825 Burma	\$65.45	35%
7009 Kassarine Pass	\$69.11	35%
5430 Westover	\$69.11	30%
5607 Belmark	\$69.11	30%
4842 Pershing	\$70.24	30%
7355 Guadalcanal	\$75.85	30%

Mr. McComb raised similar criticisms of Mr. Cooper's alternative cost comparison approach as he did in his criticisms of Mr. Cooper's failure to include supporting data for the use of the hypothetical condition and extraordinary assumption. In each Report, Mr. Cooper made reference to the Marshall & Swift Residential Cost Handbook as the source of his information, but he did not include the information itself. Mr. Cooper was unable to identify his resources, either by reviewing a work file or any other materials. The record does not disclose the specifics about how Mr. Cooper derived the replacement costs or depreciation that he listed in the Reports. The ALJ concludes that Mr. Cooper had a basic misunderstanding about the research and

recordkeeping requirements associated with a cost comparison approach in preparing an appraisal report. The preponderance of the evidence supported Staff's challenge to the reasonableness of Mr. Cooper's cost comparison approach.

**C. Issue 3: Were Mr. Cooper's Appraisal Methods Proper?**

Staff alleged that Mr. Cooper's appraisal methods failed to comply with USPAP's Scope of Work Rule and USPAP Standard 1. The Rule and the Standard govern the methods by which licensed appraisers must conduct their work:

**1. Scope of Work Rule**

The Scope of Work Rule states: "For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must: (1) identify the problem to be solved; (2) determine and perform the scope of work necessary to develop credible assignment results; and (3) disclose the scope of work in the report."<sup>109</sup>

**a. Identifying the Problem to Be Solved**

The Rule places the obligation to identify the problem to be solved squarely on the appraiser and not on the client.<sup>110</sup> The appraiser is to gather and analyze information needed to properly recognize the problem.

Mr. Cooper testified that Mr. Holverson requested him to produce the Reports showing that the Properties were worth about \$700,000.<sup>111</sup> Based on that request, Mr. Cooper identified the problem as whether the aggregate value of the Properties was about \$700,000, as Mr. Holverson had hoped. Mr. Cooper testified at the federal bond revocation hearing that Mr. Holverson had explained to him that the Properties had a fair market value of almost

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<sup>109</sup> Staff Ex. 3 at 49.

<sup>110</sup> Staff Ex. 3 at 231, Advisory Opinion 28.

<sup>111</sup> Tr. at 62, 86, 91.

nothing.<sup>112</sup> In response to that information, Mr. Cooper told Mr. Holverson “in no uncertain terms that . . . [Mr. Cooper] would be imagining for the purposes of this appraisal that almost a new house had been constructed on each one of these plots.”<sup>113</sup> According to Mr. Cooper, the Properties would have to be “substantially rehabilitated.”<sup>114</sup> Mr. Cooper testified that the only way that he could get to the identified amount was to employ the hypothetical condition and the extraordinary assumption.<sup>115</sup> This analysis has already concluded that Mr. Cooper did not agree to predetermine the Properties’ values. In light of that conclusion, Mr. Cooper’s identification of the problem as determining whether the Properties’ appraised value met Mr. Holverson’s target of \$700,000 was proper.

**b. Determining and Performing the Scope of Work**

Mr. Cooper explained that he was able to determine (and later perform) the scope of the work because he had a thorough knowledge of the South Park neighborhood’s property values.<sup>116</sup> As previously discussed, he also testified that his knowledge of the South Park neighborhood’s property values allowed him to know the results that his appraisal reports.<sup>117</sup> As also previously discussed, the manner in which Mr. Cooper performed the scope of his work did not comply with USPAP, at least as far as his formulation of a comparable sales approach and a cost comparison approach.

**c. Disclosing the Scope of Work in the Report**

The parties did not dispute that Mr. Cooper disclosed in the Reports that he had used the hypothetical condition and extraordinary assumption. The question is whether Mr. Cooper properly disclosed his purpose in using these tools in reaching the appraised value of each

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<sup>112</sup> Staff Ex. 14 at 865.

<sup>113</sup> Staff Ex. 14 at 864-65.

<sup>114</sup> Staff Ex. 14 at 865.

<sup>115</sup> Tr. at 89.

<sup>116</sup> Tr. at 632.

<sup>117</sup> Tr. at 90-91.

Property. From Staff's perspective, Mr. Cooper's sole purpose in using the hypothetical condition of refurbished homes was to help Mr. Holverson achieve his target of \$700,000, a potential violation of USPAP's requirements. Mr. Cooper asserted the opposite: his purpose was to accurately reflect the conditions under which Mr. Holverson intended to offer his collateral to the fictitious bank, a potentially legitimate compliance technique under USPAP's terms.

The answers to two fundamental questions govern this determination. First, who suggested the use of a hypothetical condition? Second, under what circumstances was the suggestion made?

Mr. Cooper testified in the federal bond revocation hearing that, during the February 2, 2012 telephone call, he told Mr. Holverson that the Properties were in poor condition and that, to "get in the neighborhood of \$70,000 [each], we would have to use an extraordinary assumption and a hypothetical condition to do the job."<sup>118</sup> The testimony includes nothing about whether Mr. Holverson intended to improve the Properties.

In the Affidavit, Mr. Cooper told the federal court: "Mr. Holverson did not request or direct me to use a hypothetical condition when appraising the properties. I decided to do so on my own."<sup>119</sup> This statement makes clear that Mr. Cooper alone decided to use the hypothetical condition.

At the SOAH hearing, Mr. Cooper confirmed the accuracy of his oral testimony in federal court.<sup>120</sup> Mr. Cooper also confirmed that he had suggested to Mr. Holverson that Mr. Holverson would have to improve the conditions of the individual Properties if the Properties were to be valued about \$700,000.<sup>121</sup>

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<sup>118</sup> Staff Ex. 14 at 863.

<sup>119</sup> Resp. Ex. 1 at 709.

<sup>120</sup> Tr. at 87.

<sup>121</sup> Tr. at 128.

However, later in his SOAH testimony, Mr. Cooper testified that the reverse had happened. Mr. Cooper claimed that Mr. Holverson had told *him* that Mr. Holverson was going to improve the properties.<sup>122</sup> Mr. Cooper later testified about this version of the facts:

Q. All right. Was there further conversation with Mr. Holverson about the properties?

A. I told him with these properties being in poor condition -- he came right back and said, *Well, I'm in the process of rehabbing one at the time, and I'll rehab the rest of them and get them all up to average condition so I can sell them once they all are completed. I said, Well, if you'll do that, then we can appraise the properties using the hypothetical condition.*<sup>123</sup>

Mr. Cooper asserted that he had told the two special agents about this statement by Mr. Holverson, but the agents failed to include the information in their reports.<sup>124</sup> Mr. Cooper asserted that he had responded to all of Staff's requests for information in their questionnaire, but none of the questions related to the rehabilitation of the Properties.<sup>125</sup> He asserted that Staff should have understood that rehabilitation was a necessary condition that was included in his decision to use the extraordinary assumption or hypothetical condition.<sup>126</sup>

The ALJ declines to adopt Mr. Cooper's version of these facts. If Mr. Holverson had been the source of Mr. Cooper's decision to rely on an extraordinary assumption or hypothetical condition, then it would have been to Mr. Cooper's advantage to recite that fact at every opportunity—in every interview by the special agents, in the Affidavit, in his testimony in the federal bond revocation hearing, and in his responses to the Questionnaires. Mr. Cooper's version appears in none of those sources.

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<sup>122</sup> Q. [W]ell, initially he told you he was going to improve the properties. Is that correct?

A. Yes.  
Tr. at 132.

<sup>123</sup> Tr. at 568-69. (Emphasis supplied.)

<sup>124</sup> Tr. at 661.

<sup>125</sup> Tr. at 663

<sup>126</sup> Tr. at 664.

The evidence supports the factual determination that Mr. Cooper suggested to Mr. Holverson that the use of an extraordinary assumption or hypothetical condition was the only method available by which Mr. Cooper could help Mr. Holverson reach his targeted value for Properties. Similarly, the evidence supports the factual determination that Mr. Cooper made the suggestion for the purpose of helping Mr. Holverson achieve his target value.

## **2. Standard 1: Developing a Real Property Appraisal**

Standard 1 states:

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.<sup>127</sup>

Of the three elements in Standard 1, all three have already been reviewed in this analysis. First, Mr. Cooper identified the problem to be solved as determining whether the Properties were worth about \$700,000. Second, he determined the scope of work necessary to solve the problem, but he performed the scope of work improperly. Third, Mr. Cooper did not correctly complete the research and analyses necessary to produce a credible appraisal.

### **D. Issue 3: Potential for Misleading Effect of Appraised Values**

The third issue is: if the appraisal methods used by Mr. Cooper did not comply with USPAP standards, then would an intended user have been misled by his Reports about the value of the Properties?

Standard 2 governs the substantive content of an appraisal report in the determination of its compliance with USPAP.<sup>128</sup> Although the Standard requires an appraiser to communicate each analysis, opinion, and conclusion “in a manner that is not misleading,” the official Comment to Standard 2 clarifies that the substantive content of an appraisal report—and not the

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<sup>127</sup> Staff Ex. 3 at 52.

<sup>128</sup> Staff Ex. 3 at 58.

report's form—determines its compliance.<sup>129</sup> In addition, Standards Rule 2-2(a)(viii) requires that an appraisal report must “describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion . . . .”<sup>130</sup>

As has been determined in this analysis, Mr. Cooper's use of the term “average condition” was misleading. The term relates to the condition of a property's upkeep or maintenance and not, as Mr. Cooper asserted, the quality of original construction or neighborhood.

Staff also proved that Mr. Cooper's failed to retain the details about the construction requirements used in the hypothetical conditions. Mr. Cooper admitted that he had no survey, plans, or specifications to be used in any of the Properties' hypothetical remodeling or rebuilding.<sup>131</sup> In his defense, Mr. Cooper explained that he had conversations with Mr. Holverson about the use of a hypothetical condition and that Mr. Cooper had “understood exactly what he [Mr. Holverson] was talking about.”<sup>132</sup> Despite his understanding, Mr. Cooper did not reduce the details to writing; he took no notes; and included nothing in his work file to support his version of the conversation.<sup>133</sup>

An equally misleading element of Mr. Cooper's Reports was the profound difference in Mr. Cooper's appraised values and the MLS average for homes of the same size, in the same market area, and sold within a one-year period.<sup>134</sup> As previously discussed, many of Mr. Cooper's appraised values far exceeded Mr. McComb's calculation of the MLS average, the only other evidence about a reasonable set of values for the Properties. These differentials are particularly troubling when combined with the two other issues described in this section—the

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<sup>129</sup> Staff Ex. 3 at 58.

<sup>130</sup> Staff Ex. 3 at 60.

<sup>131</sup> Tr. at 571.

<sup>132</sup> Tr. at 650.

<sup>133</sup> Tr. at 651.

<sup>134</sup> Staff Ex. 7.

confusion created by Mr. Cooper's use of the term "average condition," and the questionable nature of Mr. Cooper's calculation of the hypothetical values. The result is a heightened potential for an intended user to be misled by Mr. Cooper's appraisal techniques.

## VI. CHARGES

### A. **First Charge: Violation of Texas Occupations Code § 1103.405 and 22 Texas Administrative Code §§ 153.20(a)(6) and 155.1(a)**

Staff alleged in its First Charge that Mr. Cooper committed these violations of USPAP:

#### 1. **USPAP Issue 1 (Bias and Predetermination of Values):**

**Did Mr. Cooper perform assignments with bias and reach predetermined, inflated values on purpose, knowing the values were not truthful and were inflated to reach predetermined amounts?<sup>135</sup>**

As discussed in Section V.A, the preponderance of the evidence shows that Mr. Cooper did not agree to reach a predetermined value or to inflate values. Leaving aside his agreements, Mr. Cooper's performance of his assignment was made with bias, as demonstrated by his use of misleading terms, failure to maintain proper work files, and reaching appraised values far in excess of recent sales prices.

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<sup>135</sup> Staff Ex. 3 at 43 (Ethics Rule; Conduct section; first, third, and sixth bullets.)

2. **USPAP Issue 2 (Scope of Work and Predetermination of Scope):**

**Did Mr. Cooper: (1) perform the scope of work necessary to develop credible assignment results, (2) disclose that scope of work in the report, and (3) predetermine his scope of work to facilitate reaching the predetermined values agreed upon with his client?<sup>136</sup>**

a. **Perform the Scope of Work**

For each appraisal assignment, an appraiser is required to determine and perform the scope of work necessary to develop credible assignment results and to disclose the scope of work in the report.<sup>137</sup> In performing the scope of work, an appraiser must include the research and analyses that are necessary to develop credible assignment results.<sup>138</sup> In gathering the research and making the analyses, an appraiser must keep a work file that includes all “data, information, and documentation necessary to support the appraiser’s opinions and conclusions and to show compliance with USPAP . . . .”<sup>139</sup>

Mr. Cooper could not produce a work file with the required information or documentation. At the SOAH hearing on the merits, Mr. McComb testified that there was nothing in the Reports that described the scope of work and that Mr. Cooper had no documentation in a work file to support the scope of work for the Reports.<sup>140</sup> Mr. Cooper relied on his expertise to support his contention that he had performed the scope of work necessary to develop credible assignment results.

The preponderance of the evidence supports Staff’s allegation that Mr. Cooper failed to perform the scope of work necessary to develop credible assignment results.

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<sup>136</sup> Staff Ex. 3 at 49 (Scope of Work Rule, items 2 and 3; *id.* at 54 (USPAP Standards Rule 1-2(h)). Staff also cited to USPAP Standard 2-2(b)(v)(ii). No subsection of Standard 2 uses that section number, and none of the provisions in subsections (v), (ii), or (vii) appears to apply to this allegation.

<sup>137</sup> Staff Ex. 3 at 49 (Scope of Work Rule).

<sup>138</sup> Staff Ex. 3 at 50 (Scope of Work Rule, “Scope of Work Acceptability.”)

<sup>139</sup> Staff Ex. 3 at 46 (Record Keeping Rule).

<sup>140</sup> Tr. at 326

**b. Disclose Scope of Work**

In disclosing the scope of work, an appraiser's report is required to: (1) contain sufficient information to allow intended users to understand the scope of work and (2) disclose the research and analyses *not* performed when disclosure is necessary for intended users to understand the report.<sup>141</sup>

The preponderance of the evidence supports Staff's allegations in both parts of the requirement. Specifically, Mr. Cooper failed to include in the Reports information that would allow an intended user to understand the scope of his work, including the definitions on which Mr. Cooper relied ("average condition"), the relevant property characteristics of the comparable properties, and the construction information about the hypothetical remodeling program.

Mr. Cooper also failed to disclose the research and the analyses that he failed to perform. Specifically, Mr. Cooper relied on his familiarity with building costs in the neighborhood to such a degree that he did not perform cost studies for new construction, remodeling, or demolition of the Properties.

**c. Predetermine Scope of Work to Reach Predetermined Values**

As stated in this analysis, the preponderance of the evidence does not support a conclusion that Mr. Cooper predetermined the appraised value of the Properties. However, the preponderance of the evidence supports an allegation that he predetermined the scope of his work. Mr. Cooper provided that evidence when he testified that he had stated to Mr. Holverson in the second telephone call: "The only way that these properties are going to appraise anywhere in this neighborhood is that all of these properties are going to have to be brought up to good or average condition."<sup>142</sup>

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<sup>141</sup> Staff Ex. 3 at 233 (Advisory Opinion 28, "Scope of Work Decision, Performance, and Disclosure: Disclosing the Scope of Work Performed.").

<sup>142</sup> Tr. at 128.

As also stated in this analysis, the evidence includes varying versions of how the hypothetical condition and extraordinary assumption came into play. Those varying versions were provided by Mr. Cooper's testimony. The preponderance of the credible testimony was that Mr. Cooper elected to alter his role as appraiser from an independent and objective evaluator of the available credible information to an appraisal counselor for Mr. Holverson. Specifically, Mr. Cooper examined the Properties, concluded that their value was far less than Mr. Holverson wanted, and suggested to Mr. Holverson a method to negotiate USPAP's many provisions to reach his goal.

In doing so, Mr. Cooper did not agree to a predetermined value, but he reached Mr. Holverson's \$700,000 figure based on assumptions and methods that were not supported by fact or USPAP procedures.

**3. USPAP Issue 3 (Summarization of Highest and Best Use):**

**Did Mr. Cooper fail to summarize his rationale for determination of the Properties highest and best use?<sup>143</sup>**

The only reference to this alleged violation was in Mr. McComb's exhibit, "USPAP Checklist for Reviewing Appraisals."<sup>144</sup> Mr. McComb's report stated that Mr. Cooper had failed to summarize in his Reports his basis for an opinion on the Properties highest and best use. If this was an issue, Mr. McComb did not testify about the matter, and Staff did not brief the issue.

The parties did not dispute that the Properties were built as single family homes or that Mr. Cooper's hypothetical condition was to rehabilitate the Properties as single family homes. The preponderance of the credible evidence does not support Staff's allegation that Mr. Cooper violated USPAP on this issue.

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<sup>143</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-3(b)); *id.* at 63 (USPAP Standards Rule 2-2(b)(ix)).

<sup>144</sup> Staff Ex. 8 at 756 (item 20).

**4. USPAP Issue 4 (Summarization of Rationale for Site Value):**

**Did Mr. Cooper fail to summarize and analyze his rationale for his site value determination and fail to employ recognized methods and techniques?**<sup>145</sup>

The only reference to the alleged violation that Mr. Cooper failed to summarize his “rationale for the site value” was in Mr. McComb’s exhibit, “USPAP Checklist for Reviewing Appraisals.”<sup>146</sup> Mr. McComb did not testify about the matter, and Staff did not brief the issue. The preponderance of the credible evidence does not support Staff’s allegation that Mr. Cooper violated USPAP on this issue.

The allegation about the failure to employ recognized methods and techniques is examined in the next USPAP issue.

**5. USPAP Issues 5 and 6 (Depreciation and Cost Approach Methods):**

**Did Mr. Cooper fail to collect, verify, analyze, and reconcile accrued depreciation and misrepresenting the true condition of the Properties and the actual depreciation that should have been applied to them, given their dilapidated condition?**<sup>147</sup>

**Did Mr. Cooper fail to employ recognized methods and techniques correctly in the cost approach?**<sup>148</sup>

Mr. McComb testified that Mr. Cooper’s use of a 29% depreciation figure was inaccurate. He asserted that Mr. Cooper had used the wrong projected lifespan of the Properties: about 90 years instead of 60 years.<sup>149</sup> Mr. Cooper testified how he conducted his cost-approach analysis, including his depreciation calculations:

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<sup>145</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-4(b)(i)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>146</sup> Staff Ex. 8 at 757 (item 22).

<sup>147</sup> Staff Ex. 3 at 55 (USPAP Standards Rule 1-4(b)(iii)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>148</sup> Staff Ex. 3 at 52 (USPAP Standards Rule 1-1(a)); *id.* at 55 (USPAP Standards Rule 1-4(b)).

<sup>149</sup> Tr. at 370-72.

The cost approach analysis, I used that to give the reader some kind of a feel for what's going on in the area. I don't put ultimate weight on it because you've got a property here that's probably – well, it was built in '55, so that gives you, what, 50-something years old, almost 60, and you got to go back and recoup all of the deferred maintenance out of there to get that to make any sense. And as a result, that's what I did. I said it was depreciated 29%. Once you do the hypothetical and bring it up to the condition, which I am telling you that we discussed, or Mr. Holverson told me it was going to be brought up to, I thought we had an economic life – we had a life of 15 years divided by a – a life of 50. You divide 50 into 15, you'll get 30%, so I'm 1% off.<sup>150</sup>

As a depreciation calculation-related issue, Mr. Cooper stated in discovery that he had prepared the depreciation portion of his cost approach in his Reports using the Marshall & Swift Residential Cost Handbook, “based on the estimated effective age and the typical life expectancy of such properties.”<sup>151</sup> Neither party challenged the assertion that the Marshall & Swift Handbook is a trusted appraisal resource. However, Mr. Cooper was unable to identify the precise pages of the materials on which he had relied or how he had used them in his analyses.

In balancing these elements about Mr. Cooper's cost-approach analysis, Mr. McComb's testimony was specific about Mr. Cooper's erroneous use of a 60-year lifespan instead of a 90-year lifespan in calculating depreciation. However, Mr. Cooper's testimony gave a reasonable explanation of how he had used depreciation and how he had calculated a 29-30% figure using a 50-year projected lifespan.<sup>152</sup> Although Mr. Cooper did not overcome his failure to produce the parts of the Marshall & Swift materials on which he relied, Staff did not sustain its burden of proof to show that Mr. Cooper had used an improper lifespan for the Properties or that his use of 29% depreciation figure, bracketed by 25% and 30% as upper and lower limits, was a violation of USPAP's requirements.

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<sup>150</sup> Tr. at 588.

<sup>151</sup> Tr. at 206.

<sup>152</sup> If Mr. Cooper had used a 60-year lifespan, as he testified, the depreciation would have dropped to about 25%, not a significant difference from his 29% calculation.

6. **USPAP Issues 7 through 12 (Sales Comparison Approach):**<sup>153</sup>

**Did Mr. Cooper fail to collect, verify, analyze, and reconcile comparable sales data adequately and failing to employ recognized methods and techniques in his sales comparison approach?**

**Did Mr. Cooper fail to provide supporting documentation or reasoning and a summary of analysis in his sales comparison approach?**

**Did Mr. Cooper fail to use inappropriate properties as comparable sales by: (1) going outside the immediate neighborhood area or subdivision to other areas that were further away from Properties, even though sufficient, more similar sales were available in the immediate area; and (2) selecting sales which were dissimilar in salient market recognized features?**

**Did Mr. Cooper fail to make appropriate adjustments (or by making inappropriate adjustments) to the sales he used?**

**Did Mr. Cooper fail to discuss his analysis and reasoning behind the adjustments he made or elected not to make?**

**Did Mr. Cooper fail to use objective market data that, if it had been used, would have resulted in significantly lower value conclusions?**

Staff asserted that Mr. Cooper violated USPAP's requirements in preparing his sales comparison approach by selecting non-representative properties from non-representative locations within non-representative sales periods.

As discussed above in Section V.B.2.a, Staff criticized the locations from which Mr. Cooper selected the comparable properties. Staff offered Mr. McComb's expert evidence to critique significant differences between Mr. Cooper's projected sales prices and the mean sales prices of allegedly comparable properties of "average condition" in the same area.<sup>154</sup> Similarly, Mr. McComb asserted that many of Mr. Cooper's comparables were found in parts of the South Park neighborhood that did not share growth or development characteristics with most of the Properties' locations.<sup>155</sup>

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<sup>153</sup> Staff Ex. 3 at 55 (USPAP Standards Rules 1-1(a) and 1-4(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>154</sup> Tr. 349.

<sup>155</sup> Tr. 339-40.

Mr. Cooper had the option of bringing an independent appraiser to testify about the reasonableness of his selection of the comparables, the market conditions of the neighborhood, the reasonableness of his decision to use sales prices more than a year old, and all of the other positions that he was defending. His decision not to call an independent expert witness left Mr. Cooper in the difficult position of having to explain the historical facts, defend his decisions, and give an expert opinion. That strategic choice weakened Mr. Cooper's case.

In evaluating the provisions of USPAP cited in these issues, the ALJ concludes that Staff proved by a preponderance of the evidence that Mr. Cooper's sales data was not comparable to the Properties' values and that Mr. Cooper's methods failed to reflect USPAP's requirements for a proper sales comparison approach. That conclusion is based in part on Mr. Cooper's inability to produce work files showing his data, methods, or reasoning. Although Mr. Cooper was able to provide some of that information in testimony, Staff proved that his oral testimony was insufficient to meet USPAP's documentary requirements.

In contrast, Staff's evidence was sufficient to show that Mr. Cooper used comparables that did not meet USPAP standards. Mr. Cooper's decision to use comparables from beyond the immediate market area suggested that he was trying to boost the Properties' values beyond the limit that the data would reasonably permit.

Further, Staff proved that Mr. Cooper's use of the hypothetical conditions in his appraisals were not supported by the types of data, analysis, and reasoning that should have been placed in a work file. The result was a set of Reports that reached unsupported conclusions in the form of unreasonably higher values that misled the intended user. Mr. Cooper argued persuasively that the bad actor in this set of facts was Mr. Holverson, a person who had lied to Mr. Cooper as a means of fraudulently obtaining information. But, Mr. Holverson's bad acts are not subject to evaluation by the Act, and Mr. Cooper's license is governed by its terms and purposes.

The Act's purpose is to: "(1) conform state law relating to the regulation of real estate appraisers to the requirements adopted under Title XI, Financial Institutions Reform, Recovery,

and Enforcement Act of 1989 [FIRREA]; and (2) enforce standards for the appraisal of real property.”<sup>156</sup> FIRREA is a federal law enacted after the savings and loan crisis of the 1980s that protects the public by requiring the states to ensure that real estate appraisals are performed competently.<sup>157</sup>

Mr. Cooper’s license requires him to comply with the provisions of the Texas’s licensing laws, including USPAP. Mr. Cooper’s evidence proved his familiarity with the South Park neighborhood, including sales prices, economics, and costs of construction. However, his familiarity was not a substitute for proof of his employing the type of analyses, record keeping, and other requirements established by USPAP. Mr. Cooper’s Reports reflect that he failed to prove his compliance with many, if not most, of those requirements.

**7. USPAP Issue 13 (Quality and Quantity of Data):**

**Did Mr. Cooper fail to reconcile the quality and quantity of the data within the approaches to value or the applicability of the approaches?**<sup>158</sup>

The only reference to this alleged violation was in Mr. McComb’s exhibit, “USPAP Checklist for Reviewing Appraisals.”<sup>159</sup> Mr. McComb’s report stated that Mr. Cooper had “performed a reconciliation of the data presented, but the data presented was not properly analyzed, supported, and reported. The reconciliation in the report was meaningless.” If this was an issue, Mr. McComb did not testify about the matter, and Staff did not brief the issue. The preponderance of the credible evidence does not support Staff’s allegation that Mr. Cooper violated USPAP on this issue.

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<sup>156</sup> Tex. Occ. Code § 1103.002.

<sup>157</sup> Pub. L. No. 101-73, 83 Stat. 183 (1989).

<sup>158</sup> Staff Ex. 3 at 56 (USPAP Standards Rule 1-6(a); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)).

<sup>159</sup> Staff Ex. 8 at 761 (item 37).

8. **USPAP Issue 14 (Involvement of Other Appraisers):**

**Did Mr. Cooper misrepresent and omit from his Reports information about the involvement of another appraiser in conducting the appraisals?<sup>160</sup>**

The record includes one reference to this alleged violation. In Staff's direct examination of Mr. Cooper, this exchange took place:

Q. And when you say nobody helped you in any substantial way, are you referring to some clerical assistance that your son Gary Cooper provided?

A. Clerical assistance.

Q. But nothing more?

A. Well, he went out with me when I did some of my inspections, so he held the tape on one end.

Q. Okay. But that was the extent of his assistance?

A. That was the extent of his. Now, we made pictures of the properties. I think I shot them all, but I ain't going to swear I made all 10 pictures. He might have made a couple pictures also.<sup>161</sup>

If Mr. Cooper's son or any other person was involved in the appraisal of the Properties in any significant manner, Staff did not present that proof. The preponderance of the credible evidence does not support Staff's allegation that Mr. Cooper violated USPAP on this issue.

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<sup>160</sup> Staff Ex. 3 at 43 (USPAP Ethics Rule; Conduct section); *id.* at 58 (USPAP Standards Rule 2-1(a)); *id.* at 62 (USPAP Standards Rule 2-2(b)(viii)); *id.* at 63 (USPAP Standards Rule 2-2(b)(ix)); *id.* at 65 (USPAP Standards Rule 2-3).

<sup>161</sup> Tr. at 44-45.

**9. USPAP Issue 15 (Producing Reports that Were Not Credible or Reliable):**

**Did Mr. Cooper produce misleading and predetermined appraisal reports containing substantial errors of omission or commission by failing to employ correct methods and techniques, resulting in appraisal reports that were not credible or reliable?**<sup>162</sup>

This matter has been addressed above in Section V.D. As previously discussed, the preponderance of the evidence supports a conclusion that Mr. Cooper produced appraisal reports that were misleading and that contained substantial errors by his failure to use correct methods and techniques. The Reports produced by Mr. Cooper were not credible or reliable.

**B. Second Charge: Violation of Board Rule 153.20(a)(12)**

Board Rule 153.20(a)(12) permits the Board to suspend or revoke a license if an appraiser makes a material misrepresentation or omission of material fact. The Board's rules do not define the term. A term that is undefined is given its common meaning or usage.<sup>163</sup> "Material" is defined as "being of real importance or great consequence, and "misrepresentation" is defined as "an untrue, incorrect, or misleading representation (as of a fact, event, or person)."<sup>164</sup>

For the reasons previously analyzed, Mr. Cooper's determination of the Properties' values were based on faulty appraisal methods that omitted material facts. Those omissions included Mr. Cooper's reliance on hypothetical conditions and extraordinary assumptions without inclusion in the Reports of all of the terms of the conditions and assumptions on which an intended user might reasonably rely, as well as his failure to retain in his work files the types of information required under USPAP.

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<sup>162</sup> *Id.* at 52 (USPAP Standards Rule 1-1(a),(b),(c)); *id.* at 58 (USPAP Standards Rule 2-1(a)).

<sup>163</sup> Tex. Gov't Code § 311.011.

<sup>164</sup> Webster's Third New Int'l Dict. at 1392, 1445 (1993).

**C. Third Charge: Violation of Board Rule 153.20(a)(10) and (11)**

The Board may discipline an appraiser who:

accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made; [or]

offers to perform appraiser services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made . . . .<sup>165</sup>

As previously determined, the preponderance of the evidence does not support a conclusion that Mr. Cooper predetermined his value estimates of the Properties. Instead, Mr. Cooper reached those value estimates only after examining the Properties.

However, the preponderance of the evidence does support the conclusion that Mr. Cooper accepted payment for services contingent on his reaching a minimum value estimate. Mr. Cooper testified that his agreement with Mr. Holverson was that if he failed to reach Mr. Holverson's identified minimum estimate, then Mr. Cooper could "walk away."<sup>166</sup> Correspondingly, under their agreement, if—and only if—Mr. Cooper could reach the minimum, then he would prepare and deliver the Reports and be eligible to be paid.

Mr. Cooper's decision to render an appraisal arose when he agreed to make an initial determination of the Properties' values. That agreement was made in the first telephone call, during which Mr. Cooper accepted Mr. Holverson's request to gather information and to provide Mr. Cooper's initial opinion about the Properties' collective appraised value. When Mr. Cooper completed his initial review and gave Mr. Holverson an oral opinion in the second telephone call, Mr. Cooper's actions constituted an appraisal under USPAP.<sup>167</sup>

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<sup>165</sup> 22 Tex. Admin. Code § 153.20(a)(10) and (11).

<sup>166</sup> Tr. at 134.

<sup>167</sup> Staff Ex. 3 at 191 (Advisory Opinion 19).

When Mr. Cooper accepted the assignment, he was bound to disclose his obligations under USPAP. The Appraisal Board suggests one appropriate way in which an appraiser could have responded to a similar request was:

I'll need to research the market to know whether the 'comps' will support a value range relative to the loan amount. In doing this, I will be deciding which sales are 'comps' and what those 'comps' mean. Those decisions will result in a range of value for your [Properties], which is an appraisal.<sup>168</sup>

Mr. Cooper's testimony showed that he substantially complied with this requirement that he clarify to Mr. Holverson his role as an independent appraiser, including his right to identify his own comparable sales.

In addition, upon learning that Mr. Holverson had a minimum value that he hoped to achieve, Mr. Cooper had an obligation to notify Mr. Holverson of the distinction between Mr. Holverson's objective of reaching the target value and the possibility that Mr. Holverson was engaging Mr. Cooper's services on the condition that the minimum value be reached. In his testimony at SOAH, Mr. Cooper asserted that he understood the distinction between the two concepts and that he agreed to "do the appraisals using the hypothetical extraordinary conditions and let the numbers fall where they may. That's what I did."<sup>169</sup> Again, Mr. Cooper's actions appear to have satisfied the minimum requirements of USPAP.

The preponderance of the evidence supports Mr. Cooper's assertion that his acceptance of payment for services was contingent upon his reaching a minimum value estimate and that the action would not interfere with his obligation to provide an independent and impartial opinion of value. The preponderance of the evidence supports a conclusion that Mr. Cooper made a full disclosure of the contingency to Mr. Holverson. Mr. Cooper's disclosure met the minimum requirements of USPAP's terms.

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<sup>168</sup> Staff Ex. 3 at 191 (Advisory Opinion 19).

<sup>169</sup> Tr. at 133-34.

## VII. SANCTIONS

The Board has adopted a sanctions matrix that ranks disciplinary actions according to the number of times a licensee has been disciplined previously and the level of the violation.<sup>170</sup> Levels of violation are: Level 1 (violations showing “minor deficiencies”); Level 2 (violations showing “serious deficiencies”); and Level 3 (violations showing “serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence”).<sup>171</sup>

The Board’s rules define “minor deficiencies” and “serious deficiencies” as:

“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[.]<sup>172</sup>

“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[.]<sup>173</sup>

Staff asserted that Mr. Cooper’s license should be revoked because his conduct allegedly constituted serious deficiencies and was done knowingly, deliberately, and willfully.<sup>174</sup> Mr. Cooper requested that no penalty be imposed.<sup>175</sup>

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<sup>170</sup> 22 Tex. Admin. Code § 153.24(j)(3).

<sup>171</sup> 22 Tex. Admin. Code § 153.24(j)(3).

<sup>172</sup> 22 Tex. Admin. Code § 153.24(j)(1)(E).

<sup>173</sup> 22 Tex. Admin. Code § 153.24(j)(1)(F).

<sup>174</sup> Staff did not argue that Mr. Cooper had acted with gross negligence.

<sup>175</sup> In Mr. Cooper’s Closing Brief at 12, counsel asserted that Mr. McComb had recommended an alternative sanction, including the imposition of “a 3-year probated revocation or suspension period with appropriate remedial measures (such as mentorship, remedial education, etc.) and appropriate restrictions on Mr. Cooper’s scope of practice and ability to sponsor appraiser trainees.” The citation for the reference was not to this language. The ALJ did not find the text in the transcript of the Mr. McComb’s testimony at the SOAH hearing or in any other evidence.

This was a first violation by Mr. Cooper. Mr. Cooper's violations evidenced serious deficiencies and were committed knowingly, deliberately, and willfully.<sup>176</sup> For a first-time violation within Discipline Level 3, the Board may impose a period of suspension, revocation, remedial measures, implementation of preventative procedures addressing specific areas of professional practice, a probationary period, restrictions on a certified appraiser's ability to sponsor appraiser trainees, restrictions on the scope of practice for a specified time period until specific conditions are satisfied, and a \$5,000 administrative penalty.

The ALJ must recommend a sanction after considering the Board's guidelines for imposing sanctions.<sup>177</sup> The ALJ's recommended findings are listed under each bulleted guideline:

- **The difficulty or complexity of the appraisal assignment(s) at issue;**  
The appraisal of the Properties, eleven single-family residences, most of which were uninhabitable within an existing inner-city neighborhood, was not a difficult or complex appraisal assignment.
- **Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;**  
The violations were knowing and intentional but not negligent or grossly negligent.
- **Whether the violations found involved a single appraisal/instance of conduct or multiple appraisals/instances of conduct;**  
The violations involved multiple appraisals in a single instance of conduct.
- **To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at: (1) a financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue; (2) the Board; (3) 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; (4) another government agency or government sponsored entity, including, but not limited to, the United States**

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<sup>176</sup> 22 Tex. Admin. Code § 153.24(j)(3)(C).

<sup>177</sup> 22 Tex. Admin. Code § 153.24(j)(2); Tex. Occ. Code § 1103.518.

**Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac; or (5) a consumer contemplating a real property transaction involving the consumer's principal residence;**

The Reports were nominally directed to a financial institution. Their true use was for a federal court's sentencing officials, but Mr. Cooper was unaware of Mr. Holverson's fraud.

- **Whether Respondent's violations caused any harm, including financial harm, and the amount of such harm;**

Although Mr. Cooper's violations had the potential to create harm, they did not. The harm was caused by the manner in which the Reports were used by Mr. Holverson after he fraudulently redacted the documents. If he had not redacted the documents or if he had actually submitted the Reports to a bank for the purpose of establishing the value of substitute collateral, they may have caused harm. However, harm was never established by a preponderance of the evidence.

- **Whether Respondent acknowledged or admitted to violations and cooperated with the Board's investigation prior to any contested case hearing;**

Mr. Cooper did not acknowledge or admit to the alleged violations. He cooperated with the Board's investigation, at least to the extent of the contested case proceeding.

- **The level of experience Respondent had in the appraisal profession at the time of the violations, including: (1) the level of appraisal credential Respondent held; (2) the length of time Respondent had been an appraiser; (3) the nature and extent of any education Respondent had received related to the areas in which violations were found; and (4) any other real estate or appraisal related background or experience Respondent had;**

Mr. Cooper had extensive experience in the appraisal profession in that he had been an appraiser for four decades, had served as an expert witness in his field, had maintained his education requirements, and had other real estate background as a broker and developer.

- **Whether Respondent can improve appraisal skills and reports through the use of remedial measures.**

Through the testimony of Mr. Robinson, Mr. Cooper acknowledged that he could improve his appraisal skills and reports through the use of remedial measures.

In addition to these findings, the ALJ also finds no evidence that Mr. Cooper colluded with Mr. Holverson to defraud the intended user of the Reports. Instead, Mr. Cooper's violations of the Act were the result of his conscious indifference to his obligations under the law. Similarly, the evidence did not show that Mr. Cooper did not agree to predetermine or to inflate the appraised values of the Properties. However, Mr. Cooper did inflate those appraised values.

Mr. Cooper's testimony demonstrated that most of his violations arose from his fundamental misunderstanding of the obligation of an appraiser not to act as an advocate for a client or for an issue.<sup>178</sup> In violation of that obligation, Mr. Cooper counseled Mr. Holverson about the conditions that Mr. Cooper needed Mr. Holverson to claim so that Mr. Cooper could help Mr. Holverson achieve his \$700,000 appraisal goal. Mr. Cooper showed Mr. Holverson how and why the use of a hypothetical condition and extraordinary assumption were the only means by which Mr. Cooper could appraise the Properties at values greater than their unimproved land values alone. When Mr. Holverson positively responded to Mr. Cooper's prompting, Mr. Cooper began performing his research and drafting the Reports. In taking this step, Mr. Cooper improperly transformed his role from that of an objective appraiser of value to that of an advocate and counselor for Mr. Holverson.

Mr. Cooper's violations did not end there. When he prepared the Reports, the manner of his preparation failed to comply with many of USPAP's requirements. Again, many of the violations in this area seemed to arise from Mr. Cooper's misunderstanding about the criteria and procedures required under current USPAP terms. Accordingly, Mr. Cooper's determination and performance of the scope of his work, including the scope of his disclosures, failed to comply with the Scope of Work Rule and the Record Keeping Rule. His resulting violations of the Standards and the Standards Rules cascaded from those failures.

Mr. Cooper based much of his defense on his deep familiarity with the South Park neighborhood. That knowledge worked both to Mr. Cooper's advantage and disadvantage. To his advantage, Mr. Cooper was able to quickly form an opinion and prepare written Reports,

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<sup>178</sup> Staff Ex. 3 at 43 (Ethics Rule, Conduct).

saving his client time and money. To his disadvantage, Mr. Cooper relied on his knowledge of the area as a substitute for his careful attendance to the steps required by USPAP for the proper preparation of an appraisal. In the process, and among other violations, Mr. Cooper managed to fail to collect, verify, analyze, and reconcile comparable sales data adequately, as well as to fail to employ recognized methods and techniques in his sales comparison approach.

Mr. Cooper called as a witness Robert Anthony Robinson, a general certified appraiser, who testified in his role as a mentor to Mr. Cooper.<sup>179</sup> From November 2013 to March 2014, Mr. Robinson's function was to help Mr. Cooper "update his practice,"<sup>180</sup> including to review common mistakes and Mr. Cooper's practices. Mr. Cooper's reliance on Mr. Robinson as a resource was admirable, but the Board is not precluded from disciplining Mr. Cooper based on his previously having sought professional remedial measures on his own.

In light of the scope of Mr. Cooper's violations, the ALJ recommends that the Board impose a period of suspension of Mr. Cooper's certified appraiser's certificate until Mr. Cooper can demonstrate his proficiency in complying with the requirements of the laws governing appraisers. During that period, Mr. Cooper should be required to take and pass the licensing examination as a general appraiser. Upon his licensing, and for a period of twelve months or the issuance of 20 acceptably prepared written appraisal reports, whichever is later, Mr. Cooper should have a monitor who reviews his appraisals before they are issued. Mr. Cooper should be required to comply with the monitor's recommendations before issuance. Mr. Cooper should be required to pay a \$5,000 administrative penalty, as well as pay the reasonable fees of his monitor.

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<sup>179</sup> Tr. at 398-410.

<sup>180</sup> Tr. at 404.

**VIII. FINDINGS OF FACT**

1. Travis R. Cooper, Respondent, has been a real estate appraiser since 1971.
2. Since December 30, 1992, Mr. Cooper has held general real estate appraiser certificate number TX-1324523-G, issued by the Texas Appraiser Licensing and Certification Board (Board).
3. As an appraiser, Mr. Cooper has served as an expert witness for the State of Texas, the City of Houston, Harris County, and for flood control entities.
4. Until this case, Mr. Cooper has never been the subject of a complaint or disciplinary action by the Board.
5. On January 28, 2012, Mr. Cooper received a telephone call from Jon Holverson, a person whom he did not know.
6. Mr. Holverson told Mr. Cooper that he needed appraisal services on ten (later, eleven) single-family residences (Properties) that he owned in the South Park area of Houston.
7. Mr. Holverson explained that he needed appraisal reports (Reports) that would prove to a bank that the Properties were worth about \$700,000.
8. Mr. Cooper agreed to research the values of the Properties and report his initial findings to Mr. Holverson.
9. On January 28, 2012, Mr. Holverson faxed to Mr. Cooper a list of the Properties.
10. Mr. Cooper visited and researched the Properties.
11. Mr. Cooper found that the Properties were generally in poor condition; only two of the Properties were habitable; some were fire- or flood-damaged; and many were boarded up.
12. On February 2, 2012, Mr. Cooper called Mr. Holverson to report that the Properties were in poor condition and that, to “get in the neighborhood of \$70,000 [each], we would have to use an extraordinary assumption and a hypothetical condition to do the job.”
13. Mr. Cooper suggested to Mr. Holverson that the use of an extraordinary assumption or hypothetical condition was the only method available by which Mr. Cooper could help Mr. Holverson reach his targeted value for Properties.
14. Mr. Cooper prepared the Reports using an extraordinary assumption and a hypothetical condition that the Properties had been remodeled to an average condition.
15. Mr. Cooper prepared the Reports to show that the Properties had a total appraised value of about \$700,000.

16. On February 21, 2012, Mr. Cooper delivered the Reports to Mr. Holverson's office.
17. Mr. Holverson paid Mr. Cooper for the Reports at an agreed price.
18. Mr. Cooper had no further business dealing with Mr. Holverson.
19. In his two telephone conversations with Mr. Cooper, Mr. Holverson failed to disclose that: (1) the federal government recently indicted him for criminal fraud for making false claims to the Small Business Administration about alleged hurricane damage; (2) he had pleaded guilty to the criminal charges; (3) the federal court had convicted him; (4) he was awaiting sentencing to a federal correctional facility for a period of 84 to 102 months; and (5) he intended to use Mr. Cooper's appraisal reports as evidence in his sentencing hearing to reduce the length of his sentence by proving that the losses to the Small Business Administration were not as significant as the government had claimed.
20. Mr. Cooper knew about none of Mr. Holverson's legal problems.
21. Mr. Holverson altered the Reports before submitting them to the federal sentencing officials.
22. The federal sentencing officials challenged the Reports.
23. Small Business Administration Special Agent Robert Mensinger interviewed Mr. Cooper about his relation with Mr. Holverson.
24. Mr. Cooper cooperated with Special Agent Mensinger and provided him with copies of the Reports as originally prepared.
25. On June 26, 2012, Mr. Cooper testified in Mr. Holverson's federal bond revocation hearing.
26. Special Agent Mensinger filed a complaint against Mr. Cooper with staff (Staff) of the Board.
27. On October 10, 2013, Staff filed with the State Office of Administrative Hearings (SOAH) an Original Statement of Charges that alleged that in preparing the Reports, Mr. Cooper had violated the Texas Appraiser Licensing and Certification Act (Act), Texas Occupations Code ch. 1101, the Board's rules, and the Uniform Standards of Professional Appraisal Practice (USPAP).
28. On February 27, 2014, Staff published a notice of hearing for a hearing on the merits to be convened on March 24, 2014.

29. The notice included: (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short, plain statement of the matters asserted.
30. On March 24, 2014, the administrative law judge (ALJ) convened a three-day hearing on the merits that adjourned on April 16, 2014, after a three-week recess.
31. Attorney Troy Beaulieu represented Staff, and attorney Sadiyah Evangelista represented Mr. Cooper.
32. The parties filed briefs, and the record closed on June 20, 2014.
33. The appraisal of the Properties, eleven single-family residences, most of which were uninhabitable within an existing inner-city neighborhood, was not a difficult or complex appraisal assignment.
34. Mr. Cooper's violations were not of a negligent, grossly negligent, or a knowing or intentional nature.
35. The violations involved multiple appraisals in a single instance of conduct.
36. The Reports were nominally directed to a financial institution. Their true use was for review by a federal court's sentencing officials, but Mr. Cooper was unaware of Mr. Holverson's fraud.
37. Although Mr. Cooper's violations had the potential to create harm, they did not.
38. Mr. Cooper did not acknowledge or admit to the alleged violations. He cooperated with the Board's investigation, at least to the extent of the contested case proceeding.
39. Mr. Cooper had extensive experience in the appraisal profession in that he had been an appraiser for four decades, had served as an expert witness in his field, had maintained his education requirements, and had other real estate background as a broker and developer.
40. Through the testimony of Mr. Robinson, Mr. Cooper acknowledged that he could improve his appraisal skills and reports through the use of remedial measures.

## IX. CONCLUSIONS OF LAW

1. The Board has jurisdiction to regulate the profession of real estate appraising. Tex. Occ. Code ch. 1103.
2. The purpose of the Texas Appraiser Licensing and Certification Act is to: “(1) conform state law relating to the regulation of real estate appraisers to the requirements adopted under Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA]; and (2) enforce standards for the appraisal of real property.” Tex. Occ. Code § 1103.002.
3. The purpose of Title XI of FIRREA is:  
  
to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.  
  
Pub. L. No. 101-73, 83 Stat. 183 (1989).
4. SOAH has jurisdiction to conduct a contested case hearing, administer oaths, admit or exclude testimony or other evidence, rule on motions, make findings of fact and conclusions of law; and issue to the Board a proposal for decision. Tex. Occ. Code §§ 1103.508, 1103.518.
5. The Board has adopted rules governing the enforcement of the profession of appraising. 22 Tex. Admin. Code chs. 153 and 155.
6. The Board’s rules conform to USPAP’s minimum standards. Tex. Occ. Code § 1103.002(2).
7. The Board may suspend or revoke the certificate of an appraiser who fails to comply with the version of USPAP in effect at the time of the appraisal or appraisal practice. 22 Tex. Admin. Code § 153.20(a)(6).
8. The version of USPAP in effect of the time of the appraisal or appraisal practice was the 2012-13 version.
9. The Board may suspend or revoke the certificate of an appraiser who accepts payment for services contingent upon a minimum or pre-agreed value estimate except when such action would not interfere with the appraiser’s obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made. 22 Tex. Admin. Code § 153.20(a)(10).

10. The Board may suspend or revoke the certificate of an appraiser who agrees to perform appraiser services when employment to perform such services is contingent upon a minimum or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made. 22 Tex. Admin. Code § 153.20(a)(11).
11. The Board may suspend or revoke the certificate of an appraiser who makes a material misrepresentation or omission of material fact. 22 Tex. Admin. Code § 153.20(a)(12).
12. As the party seeking affirmative relief, Staff had the burden to allege and prove its allegations by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427; *see Southwestern Pub. Serv. Company v. Public Utility Comm'n*, 962 S.W.2d 207, 213 (Tex. App.—Austin 1998, pet. denied).
13. Mr. Cooper performed the assignment with bias and inflated value; he neither reached nor agreed to reach a predetermined value. USPAP; Ethics Rule; Conduct section; first, third, and sixth bullets.
14. Mr. Cooper failed to perform the scope of work necessary to develop credible assignment results. USPAP; Scope of Work Rule, items 2 and 3; Standards Rule 1-2(h).
15. In the Reports, Mr. Cooper failed to include information that would allow an intended user to understand the scope of his work, including the definitions on which Mr. Cooper relied (“average condition”), the relevant property characteristics of the comparable properties, and the types of construction information on which the hypothetical condition was based. USPAP; Scope of Work Rule, items 2 and 3; Standards Rule 1-2(h).
16. Mr. Cooper did not perform cost studies for new construction, remodeling, or demolition of the Properties. USPAP; Scope of Work Rule, items 2 and 3; Standards Rule 1-2(h).
17. Mr. Cooper predetermined the scope of his work. USPAP; Scope of Work Rule, items 2 and 3; Standards Rule 1-2(h).
18. Mr. Cooper did not fail to summarize his rationale for determination of the Properties highest and best use. USPAP Standards Rules 1-3(b), 2-2(b)(ix).
19. Mr. Cooper did not fail to summarize and analyze his rationale for his site value determination. USPAP Standards Rules 1-4(b)(i), 2-2(b)(viii).
20. Mr. Cooper did not fail to collect, verify, analyze, and reconcile accrued depreciation of the Properties. USPAP Standards Rules 1-4(b)(i), 2-2(b)(viii).
21. Mr. Cooper did not misrepresent the true condition of the Properties and the actual depreciation that should have been applied to them. USPAP Standards Rules 1-4(b)(i), 2-2(b)(viii).

22. Staff did not prove that Mr. Cooper failed to collect, verify, analyze, and reconcile accrued depreciation. USPAP Standards Rules 1-4(b)(iii), 2-2(b)(viii).
23. Staff did not prove that Mr. Cooper misrepresented the true condition of the Properties and the actual depreciation that should have been applied to them. USPAP Standards Rules 1-4(b)(iii), 2-2(b)(viii).
24. Mr. Cooper did not fail to employ recognized methods and techniques correctly in the cost approach. USPAP Standards Rules 1-1(a), 1-4(b).
25. Mr. Cooper failed to collect, verify, analyze, and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
26. Mr. Cooper failed to provide supporting documentation or reasoning and a summary of analysis in his sales comparison approach. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
27. Mr. Cooper failed to use appropriate properties as comparable sales by: (1) going outside the immediate neighborhood area or subdivision to other areas that were further away from Properties, even though sufficient, more similar sales were available in the immediate area; and (2) selecting sales which were dissimilar in salient market recognized features. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
28. Mr. Cooper failed to make appropriate adjustments to the sales he used. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
29. Mr. Cooper failed to discuss his analysis and reasoning behind the adjustments he made or elected not to make. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
30. Mr. Cooper failed to use objective market data that, if it had been used, would have resulted in significantly lower value conclusions. USPAP Standards Rules 1-1(a), 1-4(a), 2-2(b)(viii).
31. Mr. Cooper did not misrepresent or omit from his Reports information about the involvement of another appraiser in conducting the appraisals. USPAP Ethics Rule; Conduct section; Standards Rules 2-1(a), 2-2(b)(viii), 2-2(b)(ix), 2-3.
32. Mr. Cooper produced misleading appraisal reports containing substantial errors of omission or commission by failing to employ correct methods and techniques, resulting in appraisal reports that were not credible or reliable. USPAP Standards Rules 1-1(a),(b),(c); 2-1(a).
33. Mr. Cooper made material misrepresentations or omission of material facts. 22 Tex. Admin. Code § 153.20(a)(12).

34. Mr. Cooper accepted payment for appraiser services contingent upon a minimum value estimate, and his agreement interfered with his obligation as an appraiser to provide an independent and impartial opinion of value and full disclosure of the contingency is that is being made. 22 Tex. Admin. Code § 153.20(a)(10).
35. Mr. Cooper agreed to perform appraiser services upon a minimum value estimate, and his agreement interfered with his obligation as an appraiser to provide an independent and impartial opinion of value and full disclosure of the contingency is made. 22 Tex. Admin. Code § 153.20(a)(11).
36. After a hearing on the merits, the ALJ is required to issue a proposal for decision that the Board take one of more the following actions: (1) dismiss the charges; (2) suspend or revoke the appraiser's certificate or license; (3) impose a period of probation with or without conditions; (4) require the appraiser to submit to reexamination for a certificate or license; (5) require the appraiser to participate in additional professional education or continuing education; (6) issue a public or private reprimand or a warning; (7) issue a consent order; or (8) impose an administrative penalty as prescribed by Section 1103.552 of the Act. Tex. Occ. Code § 1103.518.
37. The Board has adopted a sanctions matrix that ranks disciplinary actions according to the number of times a licensee has been disciplined previously and the level of the violation. 22 Tex. Admin. Code § 153.24(j)(3).
38. Levels of violation are: Level 1 (violations showing "minor deficiencies"); Level 2 (violations showing "serious deficiencies"); and Level 3 (violations showing "serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence"). 22 Tex. Admin. Code § 153.24(j)(3).
39. The Board's rules define "minor deficiencies" 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[.] 22 Tex. Admin. Code § 153.24(j)(1)(E).
40. The Board's rules define "serious deficiencies" 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[.] 22 Tex. Admin. Code § 153.24(j)(1)(F).
41. An administrative penalty may not exceed \$1,500 per violation or \$5,000 for multiple violations in a single case. Tex. Occ. Code § 1103.552(a).

42. Mr. Cooper intentionally violated a known duty, and his actions were made knowingly, deliberately, and willfully. 22 Tex. Admin. Code § 153.24(j)(3).
43. Mr. Cooper committed a first-time Disciplinary Level 3 violation.
44. The Board has developed guidelines for the consideration of the ALJ and the Board in imposing sanctions. 22 Tex. Admin. Code § 153.24(j)(2).
45. The Board should impose a period of a period of suspension of Mr. Cooper's certified appraiser's certificate until Mr. Cooper can demonstrate his proficiency in complying with the requirements of the laws governing appraisers. During that period, Mr. Cooper should be required to take and pass the licensing examination as a general appraiser. Upon his licensing, and for a period of twelve months or the issuance of 20 acceptably prepared written appraisal reports, whichever is later, Mr. Cooper should have a monitor who reviews his appraisals before they are issued. Mr. Cooper should be required to comply with the monitor's recommendations before issuance. Mr. Cooper should be required to pay a \$5,000 administrative penalty, as well as pay the reasonable fees of his monitor.

**SIGNED August 19, 2014.**

  
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**PAUL D. KEEPER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**



p.m. (CST) on July 1<sup>st</sup>, 2015 or (2) the time at which the examination required by paragraph 3 of this agreed final order is completed, submitted and received by the Board, the suspension is to be fully probated for twelve (12) additional months, subject to the following terms and conditions:

1. **MENTORSHIP.** On or before February 20<sup>th</sup>, 2015, 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 and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final 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 sales comparison approach;
  - b. Two (2) hours of mentorship concerning the cost approach;
  - c. Three (3) hours of mentorship concerning the USPAP Ethics Rule (conduct provisions), paying particular focus to the provisions prohibiting pre-determining opinions and conclusions; and,
  - d. Three (3) hours of mentorship concerning the USPAP Scope of Work Rule.
2. **ADMINISTRATIVE PENALTY.** On or before December 11<sup>th</sup>, 2014, Respondent shall pay to the Board an administrative penalty of two thousand, seven hundred and fifty dollars (\$2,750.00), by cashier's check or money order.
3. **EXAMINATION.** Respondent shall submit to a reexamination for his general certification, receive a passing grade on such reexamination and submit satisfactory evidence of successfully passing the reexamination to the Board.
4. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before the date Respondent's suspension becomes fully probated, Respondent shall promulgate, adopt and implement written, preventative policies and/or procedures addressing the above-noted deficiencies in his professional appraisal practice. Travis Cooper shall do so by means of retaining a Texas general certified real estate appraiser via a written and signed agreement to serve as his monitor for the entire twelve (12) month period of fully probated suspension. Travis Cooper shall pay the reasonable fees of the monitor. The monitor shall be approved by Board staff in advance. During this twelve (12) month time period the monitor shall review all appraisals prepared by Travis Cooper for compliance with the Board's

statute, rules, the Uniform Standards of Professional Appraisal practice ("USPAP") and recognized methods and techniques, prior to Travis Cooper's issuance of any appraisal reports. Travis Cooper shall comply with all recommendations made by the monitor regarding compliance with the Board's statute, rules, USPAP and recognized methods and techniques prior to issuance of any appraisal reports, including making changes to the appraisal reports to address the monitor's compliance concerns. At the close of the twelve (12) months, the monitor shall sign a certification confirming the monitor has completed the twelve (12) month monitoring process with Travis Cooper and provide further documentation of the monitor's review work if requested by Board staff.

5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

Respondent's failure to timely comply with any term in this Agreed Final Order, which has a specific, stated due date shall result in the automatic revocation of probation and the suspension imposed in this Agreed Final Order shall be effective for the full term commencing on the effective date of the revocation of probation. If Respondent fails to timely comply with any terms in this Agreed Final Order, which has a specific, stated due date, the Respondent shall be immediately assessed an additional, \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Act or the APA, 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.

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 admit that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of

Agreed Final Order  
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my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

**DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

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" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto: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.

**EXECUTION**

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.

**RESPONDENT**

Signed this 27 day of OCTOBER, 2014.

  
TRAVIS COOPER



SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 27 day of OCTOBER, 2014, by TRAVIS COOPER, to certify which witness my hand and official seal.

Rachel Y. Wilson  
Notary Public's Signature

Rachel Y. Wilson  
Notary Public's Printed Name

**RESPONDENT'S ATTORNEY**

Signed and approved as to form by Respondent's Attorney this 28 day of October, 2014.

Sadiyah A Evangelista  
SADIYAH EVANGELISTA, RESPONDENT'S ATTORNEY  
LAW OFFICE OF SADIYAH EVANGELISTA

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 28<sup>TH</sup> day of OCTOBER, 2014.

Troy Beaulieu  
Troy Beaulieu, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

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**AGENDA ITEM 10**

Report by AMC Advisory Committee.



TALCB Board Members

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**AMC Advisory Committee Report November 21, 2014****Members: Laurie Fontana, Chair, Sara Oates and Lawrence McNamara**

Since the August 2014 Board meeting, the AMC Advisory Committee met on October 24, 2014.

**Other Board Members in attendance:** Jesse Barba

**Committee Members in attendance:** Laurie Fontana and Sara Oates

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Mark Mrnak, Director-SES; Troy Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney; Jim Jacobs, Investigator; Denise Sample, Licensing Manager; and Amy Jasper, Licensing Supervisor.

**Public in attendance:** William B. Owen, LandSafe Appraisal Services, Inc.; Bobby Crisp, ATA; and Mark Loftus, Appraisal Practice Consultation.

The Committee discussed several items, including developing a penalty matrix for AMC complaints, compliance audits, and comments on the proposed amendments to the rules for AMCs in Chapter 159, Texas Administrative Code, Title 22. The Committee noted that all of the comments received on the proposed rule amendments were positive. No specific action was taken on other items at the meeting, but the Committee requested staff to bring additional language and suggestions regarding compliance audits and a penalty matrix for AMCs to the next meeting. The Committee continues to watch these developments and will consider the following issues at future meetings:

- AMC complaints, including developing a penalty matrix; and
- Audits of AMCs.

The Committee did not set a future meeting date.





TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

## AGENDA ITEM 11

Report by Education Committee.



TALCB Board Members

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**Education Committee Report November 21, 2014****Members: Luis De La Garza, Chair, Walker Beard and Clayton Black**

Since the August 2014 Board meeting, the Education Committee met via teleconference on October 23, 2014.

**Meeting on October 23, 2014**

**Committee Members in attendance:** Luis De La Garza, Walker Beard and Clayton Black.

**Other Board Members in attendance:** None

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Mark Mrnak, Director-SES; Gwen Jackson, Director-ELS; Margarita White, Education Supervisor; and Jennifer Wheeler, Education Specialist.

**Public in attendance:** Joe Woller, on behalf of FACT; Teresa Walker, on behalf of ATA.

The Committee discussed several items, including the approval process for education courses, the policy for awarding ACE credit for courses taken outside an appraiser's renewal cycle, and possible amendments to Board Rule 153.21. The Committee continued to work with Staff on developing the structure of an appraiser trainee review program. The Committee recommends the Board:

- Pursue a statutory change and devote additional resources to allow the Board to implement a program for the approval of education courses, providers and instructors; and
- Amend TALCB Rule 153.21 (as proposed in a later agenda item) to require all appraiser trainees and sponsors to take the appraiser trainee sponsor course at least once every four years.

The Committee members and Staff also acknowledged the dedication and public service of the Committee Chair, Luis De La Garza, who is departing the Board after serving for over six years. The Committee appreciates Mr. De La Garza's leadership and continuing efforts to improve the educational programs for Texas appraisers.

The Committee did not set a future meeting date.





TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

## AGENDA ITEM 12

Report by Enforcement Committee.



TALCB Board Members

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**Enforcement Committee Report November 21, 2014**

**Members: Laurie Fontana, Chair, Mark McAnally and Jesse Barba, Jr.**

Since the August 2014 Board meeting, the Enforcement Committee met in Austin on October 24, 2014.

**Committee Members in attendance:** Laurie Fontana, Mark McAnally, and Jesse Barba, Jr.

**Other Board Members in attendance:** None

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Mark Mrnak, Director SES; Troy Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney; Jim Jacobs, Investigator; and Ellen Sameth, Assistant Attorney General.

**Public in attendance:** Joe Woller on behalf of FACT; Bobby Crisp on behalf of ATA; Kim Garvey, Paul Hornsby & Co.; and Mark Loftus, Appraisal Practice Consultation.

The Committee continued its discussion on alternative standards for evaluating required experience for certification and requested staff to draft a rule for consideration at the next Committee meeting. The Committee discussed qualifications for appointment as a Mentor and asked staff to conduct a survey to evaluate interest in serving as a Mentor if the qualifications were changed. The Committee also considered and unanimously recommends the Board adopt proposed changes to the complaint intake form.

The Committee also discussed review of application logs and the enforcement process, as well as the statistics on staff initiated complaints arising from experience audits previously provided at the August Board meeting. Given the statistics showed very few staff initiated complaints arising from experience audits, the Committee determined no further action was needed on this item at this time.

Future items for Committee work include:

- Alternative standards for evaluating experience required for certification;
- Qualification criteria for Mentors; and
- Developing a checklist for Investigative Conferences.

The Committee appreciates the hours spent by staff and the members of the public who attended the Committee meeting and participated in the discussions.

The Committee did not set a future meeting date.



**AGENDA ITEM 13**

Report by Executive Committee.





## 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-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	FYTD Total 2014	FYTD Total 2013
Local Lines	15,926	16,098	11,660	11,684	17,463	16,921	14,820	18,592	18,491	19,181	20,424	16,834	198,094	204,739
<b>TALCB LL</b>	<b>1,029</b>	<b>1,056</b>	<b>918</b>	<b>947</b>	<b>1,311</b>	<b>1,131</b>	<b>996</b>	<b>1,100</b>	<b>1,207</b>	<b>1,306</b>	<b>1,572</b>	<b>1,152</b>	<b>13,725</b>	<b>13,841</b>
<b>Total Calls</b>	<b>16,955</b>	<b>17,154</b>	<b>12,578</b>	<b>12,631</b>	<b>18,774</b>	<b>18,052</b>	<b>15,816</b>	<b>19,692</b>	<b>19,698</b>	<b>20,487</b>	<b>21,996</b>	<b>17,986</b>	<b>211,819</b>	<b>218,580</b>

### Walk Ins

	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	FYTD Total 2014	FYTD Total 2013
Licensing	297	281	161	206	261	210	221	284	251	229	307	177	2,885	4,149
Education	191	201	116	120	150	121	134	99	156	114	103	88	1,593	2,719
Inspector	8	9	9	12	14	18	8	16	10	18	10	6	138	127
Enforcement	15	18	14	12	21	15	10	6	27	23	26	33	220	143
<b>TALCB Lic</b>	<b>14</b>	<b>8</b>	<b>11</b>	<b>8</b>	<b>11</b>	<b>7</b>	<b>3</b>	<b>8</b>	<b>16</b>	<b>4</b>	<b>4</b>	<b>10</b>	<b>104</b>	<b>132</b>
<b>TALCB Enf</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>14</b>
<b>Total</b>	<b>529</b>	<b>517</b>	<b>311</b>	<b>361</b>	<b>459</b>	<b>371</b>	<b>377</b>	<b>414</b>	<b>460</b>	<b>388</b>	<b>450</b>	<b>314</b>	<b>4,951</b>	<b>7,284</b>

### Emails

	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	FYTD Total 2014	FYTD Total 2013
Licensing	4,113	3,798	2,733	2,730	4,893	4,322	3,955	4,529	3,956	5,127	6,007	5,673	51,836	49,737
Education	824	1,088	631	562	999	1,168	1,171	620	788	807	1,064	901	10,623	10,606
Inspector	58	63	38	24	44	57	71	55	188	72	88	47	805	615
Enforcement	94	99	81	86	59	58	91	50	141	155	188	128	1,230	1,412
<b>TALCB Lic</b>	<b>103</b>	<b>117</b>	<b>105</b>	<b>126</b>	<b>99</b>	<b>120</b>	<b>79</b>	<b>30</b>	<b>142</b>	<b>176</b>	<b>172</b>	<b>110</b>	<b>1,379</b>	<b>943</b>
<b>TALCB Enf</b>	<b>7</b>	<b>17</b>	<b>15</b>	<b>12</b>	<b>6</b>	<b>15</b>	<b>1</b>	<b>13</b>	<b>18</b>	<b>2</b>	<b>18</b>	<b>16</b>	<b>140</b>	<b>111</b>
<b>Total</b>	<b>5,199</b>	<b>5,182</b>	<b>3,603</b>	<b>3,540</b>	<b>6,100</b>	<b>5,740</b>	<b>5,368</b>	<b>5,297</b>	<b>5,233</b>	<b>6,339</b>	<b>7,537</b>	<b>6,875</b>	<b>66,013</b>	<b>63,424</b>

## Reception and Communication Services Division

### Incoming Calls

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total
Local Lines	15,634												15,634
<b>TALCB LL</b>	<b>1,031</b>												<b>1,031</b>
<b>Total Calls</b>	<b>16,665</b>												<b>16,665</b>

### Walk Ins

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total
Licensing	210												210
Education	144												144
Inspector	18												18
Enforcement	19												19
<b>TALCB Lic</b>	<b>6</b>												<b>6</b>
<b>TALCB Enf</b>	<b>0</b>												<b>0</b>
<b>Total</b>	<b>397</b>												<b>397</b>

### Emails

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total
Licensing	4,478												4,478
Education	659												659
Inspector	87												87
Enforcement	115												115
<b>TALCB Lic</b>	<b>70</b>												<b>70</b>
<b>TALCB Enf</b>	<b>4</b>												<b>4</b>
<b>Total</b>	<b>5,413</b>												<b>5,413</b>

C1 Report  
FY 2015

**TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**ACTIVE CERTIFICATIONS AND LICENSES**

FISCAL YEAR	END OF MONTH					TOTAL	G.R.L. & P	TRAINEE		TOTAL	TOTAL
		GENERAL	RESIDENTIAL	LICENSE	PROVISIONAL	G.R.L. & P	CHANGE	TRAINEE	CHANGE	TOTAL	CHANGE
<b>FY-2010</b>	Sep09	2,345	2,496	779	44	5,664	3	635	-9	6,299	-6
	Oct09	2,347	2,499	773	44	5,663	-1	628	-7	6,291	-8
	Nov09	2,352	2,505	758	44	5,659	-4	614	-14	6,273	-18
	Dec09	2,354	2,508	750	41	5,653	-6	609	-5	6,262	-11
	Jan10	2,352	2,507	747	34	5,640	-13	608	-1	6,248	-14
	Feb10	2,351	2,508	733	28	5,620	-20	613	5	6,233	-15
	Mar10	2,353	2,503	722	28	5,606	-14	623	10	6,229	-4
	Apr10	2,358	2,500	712	28	5,598	-8	599	-24	6,197	-32
	May10	2,361	2,498	707	27	5,593	-5	592	-7	6,185	-12
	Jun10	2,360	2,500	694	28	5,582	-11	576	-16	6,158	-27
Jul10	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	
<b>FY-2011</b>	Sep10	2,366	2,486	651	23	5,526	-18	614	67	6,140	49
	<b>Oct-Dec10 - Totals for October thru December 2010 are not available due to system conversion</b>										
	Jan11	2,361	2,470	626	21	5,478	-48	520	-94	5,998	-142
	Feb11	2,370	2,472	628	21	5,491	13	534	14	6,025	27
	Mar11	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
	Jun11	2,374	2,458	598	22	5,452	10	528	10	5,980	20
	Jul11	2,379	2,463	604	22	5,468	16	538	10	6,006	26
	Aug11	2,396	2,476	605	23	5,500	32	549	11	6,049	43
<b>FY-2012</b>	Sep11	2,403	2,480	606	23	5,512	12	567	18	6,079	30
	Oct11	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
	Dec11	2,369	2,414	543	13	5,339	-199	500	-84	5,839	-283
	Jan12	2,376	2,412	542	14	5,344	5	520	20	5,864	25
	Feb12	2,358	2,387	527	13	5,285	-59	498	-22	5,783	-81
	Mar12	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
	Jun12	2,375	2,381	513	11	5,280	1	502	4	5,782	5
Jul12	2,365	2,376	513	10	5,264	-16	512	10	5,776	-6	
Aug12	2,371	2,385	515	10	5,281	17	515	3	5,796	20	
<b>FY-2013</b>	Sep12	2,382	2,388	512	9	5,291	10	534	19	5,825	29
	Oct12	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
	Dec12	2,390	2,381	501	6	5,278	-11	550	16	5,828	5
	Jan13	2,377	2,380	502	6	5,265	-13	576	26	5,841	13
	Feb13	2,379	2,377	499	4	5,259	-6	591	15	5,850	9
	Mar13	2,382	2,374	490	3	5,249	-10	607	16	5,856	6
	Apr13	2,378	2,373	484	2	5,237	-12	634	27	5,871	15
	May13	2,369	2,371	482	2	5,224	-13	657	23	5,881	10
	Jun13	2,368	2,369	480	2	5,219	-5	682	25	5,901	20
Jul13	2,359	2,367	477	2	5,205	-14	702	20	5,907	6	
Aug13	2,367	2,371	470	2	5,210	5	724	22	5,934	27	
<b>FY-2014</b>	Sep13	2,368	2,375	467	1	5,211	1	741	17	5,952	18
	Oct13	2,367	2,381	467	1	5,216	5	767	26	5,983	31
	Nov13	2,371	2,381	467	1	5,220	4	781	14	6,001	18
	Dec13	2,374	2,380	466	1	5,221	1	792	11	6,013	12
	Jan14	2,363	2,382	461	1	5,207	-14	786	-6	5,993	-20
	Feb14	2,365	2,379	457	0	5,201	-6	780	-6	5,981	-12
	Mar14	2,368	2,385	453	0	5,206	5	788	8	5,994	13
	Apr14	2,373	2,393	454	0	5,220	14	783	-5	6,003	9
	May14	2,375	2,399	457	0	5,231	11	779	-4	6,010	7
	Jun14	2,378	2,401	451	0	5,230	-1	777	-2	6,007	-3
Jul14	2,377	2,403	454	0	5,234	4	766	-11	6,000	-7	
Aug14	2,386	2,405	453	0	5,244	10	760	-6	6,004	4	
<b>FY-2015</b>	Sep14	<b>2,393</b>	<b>2,407</b>	<b>451</b>	<b>0</b>	<b>5,251</b>	<b>7</b>	<b>767</b>	<b>7</b>	<b>6,018</b>	<b>14</b>

(September 2014: Temporary Out of State Appraisers = 743 ; Inactive Appraisers = 121)

**APPRAISAL MANAGEMENT COMPANY REGISTRATIONS  
OCTOBER 2014**

	<b>Month</b>	<b>Paper Apps. Received</b>	<b>Online Apps. Received</b>	<b>Total Apps. Received</b>	<b>Total AMC Registrations Issued</b>	<b>Total AMC Renewals Issued</b>
<b>FY-2012</b>	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	
<b>SUB-TOTALS</b>		<b>130</b>	<b>46</b>	<b>176</b>	<b>169</b>	
<b>FY- 2013</b>	Sep-12	0	1	1	3	
	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	
	Apr-13	1	1	2	0	
	May-13	0	0	0	1	
	Jun-13	0	1	1	4	
	Jul-13	0	1	1	1	
	Aug-13	1	1	2	1	
<b>SUB-TOTALS</b>		<b>6</b>	<b>11</b>	<b>17</b>	<b>23</b>	
<b>FY- 2014</b>	Sep-13	0	3	3	2	
	Oct-13	0	1	1	2	
	Nov-13	0	0	0	0	
	Dec-13	0	1	1	0	0
	Jan-14	0	0	0	1	1
	Feb-14	0	0	0	0	5
	Mar-14	0	2	2	2	9
	Apr-14	1	0	1	2	18
	May-14	1	1	2	0	28
	Jun-14	1	1	2	4	37
	Jul-14	0	0	0	0	24
	Aug-14	0	0	0	0	15
<b>SUB-TOTALS</b>		<b>3</b>	<b>9</b>	<b>12</b>	<b>13</b>	<b>137</b>
<b>FY- 2015</b>	Sep-14	1	1	2	1	4
	Oct-14	0	0	0	1	2
		<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>6</b>
<b>GRAND TOTALS</b>		<b>140</b>	<b>67</b>	<b>207</b>	<b>207</b>	<b>143</b>

Registrations Surrendered in February '13	-3
Registrations Revoked in March '13	-1
Registrations Surrendered in July '13	-1
Registrations Revoked in July '13	-1
Registrations Surrendered in September '13	-1
Registrations Surrendered in February '14	-1
Registrations Surrendered in March '14	-1
Registrations Revoked in May '14	-1
Registrations Surrendered in June '14	-1

**TOTAL AMC REGISTRATIONS** **196**

# Education & Licensing Services Division - TALCB

## Fiscal Year Comparison

### Fiscal Year - 2014

#### AUGUST

	This YTD 9/13 - 08/14	Last YTD 9/12 - 08/13	Change Count	Percent
<b><i>Original Applications Received</i></b>				
Certified General Applications	141	90	51	56.67%
Certified Residential Applications	155	109	46	42.20%
State Licensed Applications	62	44	18	40.91%
Appraiser Trainee Applications	247	263	-16	-6.08%
Non-Residential Temporary Applications	270	347	-77	-22.19%
<b>Total Original Applications</b>	<b>875</b>	<b>853</b>	<b>22</b>	<b>2.58%</b>
<b><i>Licenses Issued from Original Applications</i></b>				
Certified General Licenses	130	99	31	31.31%
Certified Residential Licenses	143	121	22	18.18%
State Licensed	52	46	6	13.04%
Appraiser Trainee Licenses	240	254	-14	-5.51%
Non-Residential Temporary Licenses	275	345	-70	-20.29%
<b>Total Licenses from Original Applications</b>	<b>840</b>	<b>865</b>	<b>-25</b>	<b>-2.89%</b>
<b><i>Licenses Issued from Renewal Applications</i></b>				
Certified General Renewals	1,094	1,310	-216	-16.49%
Certified Residential Renewals	1,206	1,213	-7	-0.58%
State Licensed Renewals	261	279	-18	-6.45%
Appraiser Trainee Renewals	253	230	23	10.00%
<b>Total Renewal Licenses Issued</b>	<b>2,814</b>	<b>3,032</b>	<b>-218</b>	<b>-7.19%</b>
<b><i>Licenses Issued from Reinstatement Applications</i></b>				
Certified General Reinstatements	19	13	6	46.15%
Certified Residential Reinstatements	7	6	1	16.67%
State Licensed Reinstatements	2	6	-4	-66.67%
Appraiser Trainee Reinstatements	26	36	-10	-27.78%
<b>Total Reinstatement Licenses Issued</b>	<b>54</b>	<b>61</b>	<b>-7</b>	<b>-11.48%</b>

# Education & Licensing Services Division - TALCB

## Fiscal Year Comparison

### Fiscal Year - 2015

#### SEPTEMBER

	This YTD	Last YTD	Change	
	9/14 - 09/14	9/13 - 09/13	Count	Percent
<b><i>Original Applications Received</i></b>				
Certified General Applications	20	9	11	122.22%
Certified Residential Applications	16	14	2	14.29%
State Licensed Applications	7	8	-1	-12.50%
Appraiser Trainee Applications	27	24	3	12.50%
Non-Residential Temporary Applications	14	22	-8	-36.36%
<b>Total Original Applications</b>	<b>84</b>	<b>77</b>	<b>7</b>	<b>9.09%</b>
<b><i>Licenses Issued from Original Applications</i></b>				
Certified General Licenses	19	7	12	171.43%
Certified Residential Licenses	13	14	-1	-7.14%
State Licensed	4	4	0	0.00%
Appraiser Trainee Licenses	26	18	8	44.44%
Non-Residential Temporary Licenses	12	24	-12	-50.00%
<b>Total Licenses from Original Applications</b>	<b>74</b>	<b>67</b>	<b>7</b>	<b>10.45%</b>
<b><i>Licenses Issued from Renewal Applications</i></b>				
Certified General Renewals	79	67	12	17.91%
Certified Residential Renewals	87	99	-12	-12.12%
State Licensed Renewals	22	24	-2	-8.33%
Appraiser Trainee Renewals	44	2	42	2100.00%
<b>Total Renewal Licenses Issued</b>	<b>232</b>	<b>192</b>	<b>40</b>	<b>20.83%</b>
<b><i>Licenses Issued from Reinstatement Applications</i></b>				
Certified General Reinstatements	0	1	-1	-100.00%
Certified Residential Reinstatements	0	0	0	0.00%
State Licensed Reinstatements	1	0	1	N/A
Appraiser Trainee Reinstatements	1	4	-3	-75.00%
<b>Total Reinstatement Licenses Issued</b>	<b>2</b>	<b>5</b>	<b>-3</b>	<b>-60.00%</b>

## EXAMINATION ACTIVITY

### FISCAL YEAR-TO-DATE COMPARISON AUGUST

	<u>Sept. 2013 – Aug. 2014</u> <u>Pass Rate</u>	<u>Sept. 2012 – Aug. 2013</u> <u>Pass Rate</u>	<u>Difference</u>
Certified General Appraiser	65.3%	72.2%	-6.9%
Certified Residential Appraiser	65.7%	67.9%	-2.2%
Licensed Appraiser	50.0%	44.4%	+5.6%
<b>Overall Appraiser Pass Rate</b>	<b>60.8%</b>	<b>60.1%</b>	<b>-0.7%</b>

## EXAMINATION ACTIVITY

### FISCAL YEAR-TO-DATE COMPARISON SEPTEMBER

	<u>Sept. 2014</u> <u>Pass Rate</u>	<u>Sept. 2013</u> <u>Pass Rate</u>	<u>Difference</u>
Certified General Appraiser	100.0%	100.0%	0%
Certified Residential Appraiser	46.6%	50.0%	-3.4%
Licensed Appraiser	50.0%	40.0%	+10.0%
<b>Overall Appraiser Pass Rate</b>	<b>58.3%</b>	<b>56.2%</b>	<b>+2.1%</b>

**Information Technology Services Division**  
**Electronic Information Outlet Statistics**

**TALCB FY 2013 Versus FY 2014**

<b>World Wide Web</b>	<b>FY 2013</b>	<b>FY 2014</b>
Total Pages Viewed	1,578,917	1,317,767
Total Monthly Unique Visitors	27,616	23,560

<b>Online Transactions</b>	<b>FY 2013 Online</b>	<b>FY 2013 Utilization</b>	<b>2014 Online</b>	<b>FY 2014 Utilization</b>
<b>Applications</b>	<b>11</b>	<b>68.8%</b>	<b>89</b>	<b>25.7%</b>
AMC	11	68.8%	9	64.3%
Certified General Appraiser			5	5.7%
Certified Residential Appraiser			4	4.9%
State Licensed Appraiser			3	11.1%
Appraiser Trainee			68	39.5%
<b>Renewals</b>	<b>2152</b>	<b>89.9%</b>	<b>2227</b>	<b>83.7%</b>
Certified General Appraiser	1091	88.9%	841	84.6%
Certified Residential Appraiser	1056	93.7%	1049	94.0%
State Licensed Appraiser	4	13.3%	128	51.2%
Appraiser Trainee	1	9.1%	129	64.8%
AMC	0		80	78.4%
<b>AMC Panel:</b>				
Invitations	9317		7334	
Removals	243		660	

## Information Technology Services Division

### Electronic Information Outlet Statistics

TALCB As of September 2014

<b>World Wide Web</b>	<b>Latest 3 Months</b>	<b>Prior Yr 3 Mo</b>	<b>Total Fiscal YTD</b>	<b>Total Prior Fiscal YTD</b>
Total Pages Viewed	344,650	359,048	121,804	119,016
Total Monthly Unique Visitors	23,457	23,023	7,990	7,484

<b>Online Transactions</b>	<b>Total Latest 3 Mo</b>	<b>Online Latest 3 Mo</b>	<b>Online Percent</b>	<b>Fiscal YTD Online Percent</b>	<b>Prior Fiscal YTD Online Percent</b>
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<b>Applications</b>	<b>129</b>	<b>39</b>	<b>30.2%</b>	<b>39.6%</b>	<b>50.0%</b>
AMC	4	0	0.0%	0.0%	50.0%
Certified General Appraiser	40	3	7.5%	11.8%	0.0%
Certified Residential Appraiser	20	4	20.0%	12.5%	0.0%
State Licensed Appraiser	7	2	28.6%	0.0%	0.0%
Appraiser Trainee	58	30	51.7%	69.2%	0.0%

<b>Renewals</b>	<b>602</b>	<b>448</b>	<b>74.4%</b>	<b>88.8%</b>	<b>92.0%</b>
Certified General Appraiser	231	211	91.3%	93.2%	92.2%
Certified Residential Appraiser	250	162	64.8%	96.3%	96.8%
State Licensed Appraiser	46	29	63.0%	80.0%	62.5%
Appraiser Trainee	75	46	61.3%	54.5%	100.0%
AMC	4	0	0.0%	0.0%	0

<b>AMC Panel:</b>	<b>Last 3 Months</b>	<b>FY YTD</b>
Invitations	1656	420
Removals	217	108

**Staff & Support Services Division**  
**TALCB Budget Status Report**  
**For the Year ended August 31, 2014**

0/12 = 0%

Expenditure Category	Budget FY2014	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	\$953,259	\$899,883	\$53,376	5.6%	
Employee Benefits	251,661	255,011	(3,350)	-1.3%	
Retiree Insurance	14,524	23,250	(8,726)	-60.1%	Expense for 3 retirees; budgeted for 2
Other Personnel Costs	38,500	22,965	15,535	40.4%	\$4,800 budgeted for PAC, Cobj 7025
Professional Fees & Services	100,200	77,614	22,586	22.5%	\$4,000 budgeted for PIC, Cobj 7253
Consumables	8,400	2,640	5,760	68.6%	
Utilities	650	929	(279)	-42.9%	Field appraiser phone service exp not budgeted.
Travel	27,000	28,368	(1,368)	-5.1%	
Office Rent	75,252	37,030	38,222	50.8%	SWCAP allocated expenses have reduced the rent expense. No other rent payments are due.
Equipment Rental	8,900	6,119	2,781	31.2%	Copier rental expense less than budgeted
Registration & Membership	11,750	14,902	(3,152)	-26.8%	Training and conferences
Maintenance & Repairs	9,340	10,007	(667)	-7.1%	
Reproduction & Printing	1,500	396	1,104	73.6%	
Contract Services	43,902	15,828	28,074	63.9%	Court reporters/transcripts/subpoenas
Postage	6,125	6,100	25	0.4%	
Supplies & Equipment	10,405	2,286	8,119	78.0%	PC refresh
Communication Services	7,916	8,248	(332)	-4.2%	
Other Operating Expenses	3,600	2,329	1,271	35.3%	
<b>Subtotal - Operations Expenditures</b>	<b>1,572,884</b>	<b>1,413,905</b>	<b>158,979</b>	<b>10.1%</b>	
DPS Criminal History Background Checks	3,000	3,385	(385)	-12.8%	
Statewide Cost Allocation Plan (SWCAP)	10,000	44,142	(34,142)	-341.4%	SWCAP expense higher than budgeted amt. SWCAP costs attributed to SFA bldg have been offset against the rent payment, reducing the amount of rent owed.
Contribution to General Revenue	30,000	30,000	0	0.0%	
<b>Subtotal - Nonoperational Expenditures</b>	<b>43,000</b>	<b>77,527</b>	<b>(34,527)</b>	<b>-80.3%</b>	
<b>Total Expenditures</b>	<b>\$1,615,884</b>	<b>\$1,491,432</b>	<b>\$124,452</b>	<b>7.7%</b>	

Revenue	FY2014 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	\$1,121,711	\$1,159,487	(\$37,776)	-3.4%	Revenue budget based on 2,430 nrwls and 845 new apps
AMCs	748,430	824,470	(\$76,040)	-10.2%	143 AMC nrwls; 12 new AMC apps; 31K panelists
Other Miscellaneous Revenue	2,812	1,375	\$1,437	51.1%	PSI Admin Fees/NSF fees
<b>Total Revenue</b>	<b>\$1,872,953</b>	<b>\$1,985,332</b>	<b>(\$112,379)</b>	<b>-6.0%</b>	

	FY13 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	
AMC Revenue Carry Forward from FY13	\$308,904	\$308,904	\$0	0.0%	Pro-rated thru August

Revenue Over/(Under) Expenditures & Transfers	\$565,973	\$802,804			Includes AMC Carry Forward
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**Staff & Support Services Division**

**TALCB Budget Status Report**

**September 2014**

11/12 = 91.7%

Expenditure Category	Budget FY2014	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	\$970,424	\$76,560	\$893,864	92.1%	
Employee Benefits	259,397	21,560	237,837	91.7%	
Retiree Insurance	33,636	0	33,636	100.0%	
Other Personnel Costs	42,800	920	41,880	97.9%	
Professional Fees & Services	86,690	75	86,615	99.9%	
Consumables	8,500	0	8,500	100.0%	
Utilities	1,740	48	1,692	97.2%	
Travel	30,000	414	29,586	98.6%	
Office Rent	37,625	0	37,625	100.0%	
Equipment Rental	8,500	0	8,500	100.0%	
Registration & Membership	14,875	1,450	13,425	90.3%	
Maintenance & Repairs	9,340	0	9,340	100.0%	
Reproduction & Printing	1,500	0	1,500	100.0%	
Contract Services	42,080	3,224	38,856	92.3%	
Postage	6,125	0	6,125	100.0%	
Supplies & Equipment	10,785	0	10,785	100.0%	
Communication Services	8,046	67	7,979	99.2%	
Other Operating Expenses	4,331	450	3,881	89.6%	
<b>Subtotal -Operations Expenditures</b>	<b>1,576,394</b>	<b>104,768</b>	<b>1,471,626</b>	<b>93.4%</b>	
DPS Criminal History Background Checks	3,000	0	3,000	100.0%	
Statewide Cost Allocation Plan (SWCAP)	45,000	0	45,000	100.0%	
Contribution to General Revenue	30,000	2,500	27,500	91.7%	% allocated monthly but pmt not due until 8/31/15
<b>Subtotal - Nonoperational Expenditures</b>	<b>78,000</b>	<b>2,500</b>	<b>75,500</b>	<b>96.8%</b>	
<b>Total Expenditures</b>	<b>\$1,654,394</b>	<b>\$107,268</b>	<b>\$1,547,126</b>	<b>93.5%</b>	

Revenue	FY2014 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	\$1,201,592	\$86,505	\$1,115,087	92.8%	
AMCs	112,830	21,980	\$90,850	80.5%	
Other Miscellaneous Revenue	1,355	90	\$1,265	93.4%	Exam Admin Fees/NSF fees
<b>Total Revenue</b>	<b>\$1,315,777</b>	<b>\$108,575</b>	<b>\$1,207,202</b>	<b>91.7%</b>	

	FY13 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	
AMC Revenue Carry Forward from FY13	\$366,285	\$30,524	\$335,761	91.7%	Pro-rated thru September
<b>Revenue Over/(Under) Expenditures &amp; Transfers</b>	<b>\$27,668</b>	<b>\$31,831</b>			Includes AMC Carry Forward

## TALCB Standards & Enforcement Services

### CASE STATUS REPORT FY 2015 as of OCTOBER 31, 2014

#### # of Cases Received

Case Classification	FY2013	FY2014	14-Sep	14-Oct	14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	FYTD
<b>Regulatory Complaints:</b>															
AMCs	20	12	1	1											2
Dodd Frank	28	16	0	0											0
Ethics	8	5	1	0											1
USPAP	160	111	7	8											15
Other	12	7	0	0											0
No Jurisdiction	3	0	0	0											0
	<b>231</b>	<b>151</b>	9	9	0	0	0	0	0	0	0	0	0	0	<b>18</b>
<b>Experience Audits</b>	93	155	19	20											39
<b>RFAs &amp; Covert Complaints</b>	1	3	0	1											1
<b>MCD Inquiries</b>	7	4	1	0											1
	<b>101</b>	<b>162</b>	20	21	0	0	0	0	0	0	0	0	0	0	<b>41</b>
<b>Opened During Month</b>	<b>332</b>	<b>313</b>	<b>29</b>	<b>30</b>	<b>0</b>	<b>59</b>									

#### # of Cases Closed

Case Disposition	FY2013	FY2014	14-Sep	14-Oct	14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	FYTD
<b>Regulatory Complaints:</b>															
Surrendered	8	4	0	0											0
Agreed Final Order / Final Order	68	46	0	0											0
Other Disciplinary Action	12	2	0	0											0
Insufficient Evidence	0	0	0	0											0
Dismissed	271	106	12	4											16
No Jurisdiction	8	0	0	0											0
	<b>367</b>	<b>158</b>	12	4	0	0	0	0	0	0	0	0	0	0	<b>16</b>
<b>Experience Audits</b>	93	130	13	16											29
<b>RFAs</b>	20	14	0	0											0
<b>MCD Inquiries</b>	7	3	1	1											2
	<b>120</b>	<b>147</b>	14	17	0	0	0	0	0	0	0	0	0	0	<b>31</b>
<b>Closed During Month</b>	<b>487</b>	<b>305</b>	<b>26</b>	<b>21</b>	<b>0</b>	<b>47</b>									

Total Cases Open as of 10/31/2014:

189

## TALCB Standards & Enforcement Services

### AMC CASE STATUS REPORT FY 2015 as of OCTOBER 31, 2014

#### # of Cases Received

Case Classification	FY 2013	FY 2014	14-Sep	14-Oct	14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	FYTD
<b>AMC Complaints:</b>															
AMC Compliance	0	3	0	0											0
Dodd Frank	0	0	0	0											0
Ethics	7	0	0	0											0
USPAP	6	9	1	0											1
Other	7	0	0	1											1
No Jurisdiction	0	0	0	0											0
	<b>20</b>	<b>12</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>									
<b>RFAs &amp; Covert Complaints</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Opened During Month</b>	<b>20</b>	<b>12</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>									

#### # of Cases Closed

Case Disposition	FY2013	FY2014	14-Sep	14-Oct	14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	FYTD
<b>AMC Complaints:</b>															
Surrendered	0	0	0	0											0
Agreed Final Order	0	0	0	0											0
Other Disciplinary Action	2	2	0	0											0
Insufficient Evidence	0	0	0	0											0
Dismissed	17	7	1	0											1
No Jurisdiction	2	0	0	0											0
	<b>21</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>1</b>										
<b>RFAs &amp; Covert Complaints</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Closed During Month</b>	<b>21</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>1</b>										

**Total Cases Open as of 10/31/2014: 5**

# TOTAL OPEN REGULATORY COMPLAINTS & RFAs

Fiscal Year	No. Pending (as of 1/28/14)		No. Pending (as of 4/23/14)		No. Pending (as of 7/24/14)		No. Pending (as of 10/31/14)		Percentage Change from Previous Reporting Period
<b>2008</b>	5	1 Covert	4	1 Covert	1	1 Covert	1	1 Covert	_____
		4 RFA		3 RFA		0 RFA		0 RFA	
<b>2009</b>	5	1 Covert	5	1 Covert	4	1 Covert	4	1 Covert	_____
		4 RFA		4 RFA		3 RFA		3 RFA	
<b>2010</b>	5	0 Reg	3	0 Reg	2	0 Reg	2	0 Reg	_____
		5 RFA		3 RFA		2 RFA		2 RFA	
<b>2011</b>	6	1 Reg	2	0 Reg	1	0 Reg	1	0 Reg	_____
		5 RFA		2 RFA		1 RFA		1 RFA	
<b>2012</b>	3	1 Reg	3	1 Reg	2	1 Reg	2	1 Reg	_____
		2 RFA		2 RFA		1 RFA		1 RFA	
<b>2013</b>	64	63 Reg	37	36 Reg	27	26 Reg	23	22 Reg	(14.8%)
		1 RFA		1 RFA		1 RFA		1 RFA	
<b>2014</b>	51	50 Reg	73	71 Reg	91	89 Reg	85	82 Reg	(6.6%)
		1 RFA		2 RFA		2 RFA		3 RFA	
<b>2015</b>	-----	-----	-----	-----	-----	-----	19	18 Reg 1 RFA	_____
<b>Total</b>	139		127		128		137		7%

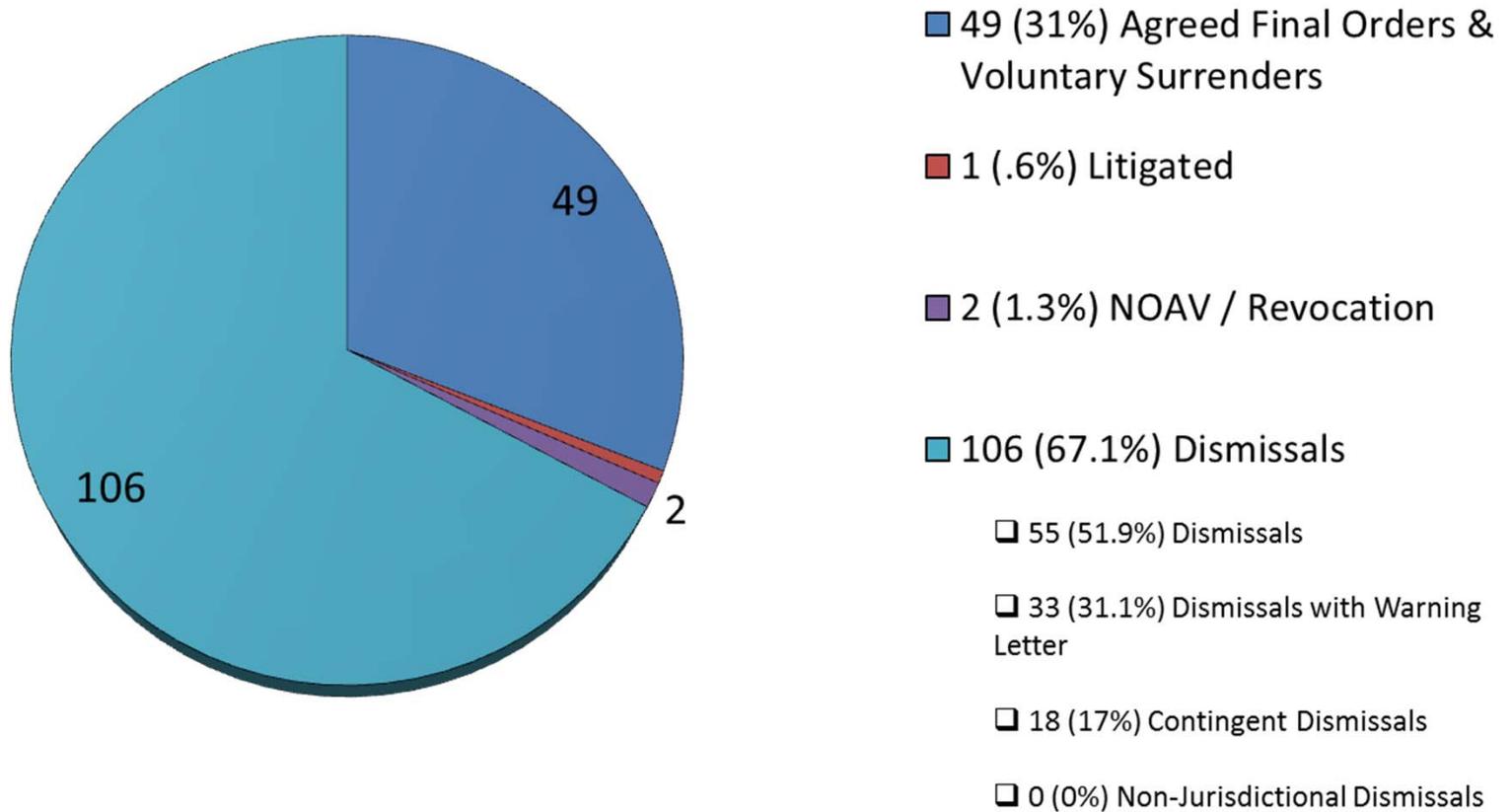
# CASES AT LEAST 1-YR OLD

	As of 11/4/13	As of 1/28/13	As of 4/23/14	As of 7/24/14	As of 10/31/14	Percentage Change from Reporting Period
<b>Agreed Orders / PFD Received</b>	12	3	0	0	9	900%
<b>Awaiting Receipt of PFD</b>	0	0	0	1	0	(100%)
<b>Set for Hearing</b>	1	1	0	0	0	_____
<b>Hearing Required/Being Processed for SOAH</b>	0	1	1	0	0	_____
<b>In Negotiations/Pending Contingent Dismissals</b>	12	0	1	9	7	(22.2%)
<b>RFAs / Covert Reviews / Litigation Holds</b>	22	22	16	12	10	(16.7%)
<b>Regulatory Reviews in Investigation</b>	0	0	0	6	15	150%
<b>Sent to Peer Review Committee</b>	0	0	0	0	0	_____
<b>Total Cases</b>	47	27	19	28	41	46.42%

# CASE RESOLUTIONS FY 2014

SEPTEMBER 1, 2013 – AUGUST 31, 2014

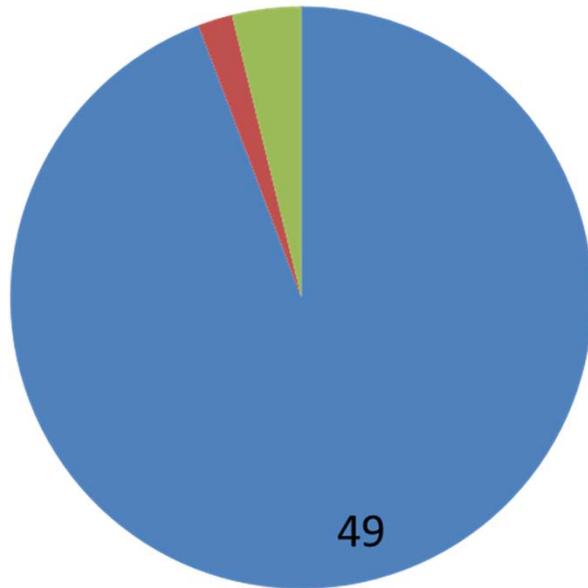
## 158 Total Complaints Resolved



# DISCIPLINARY ACTIONS FY 2014

SEPTEMBER 1, 2013 – AUGUST 31, 2014

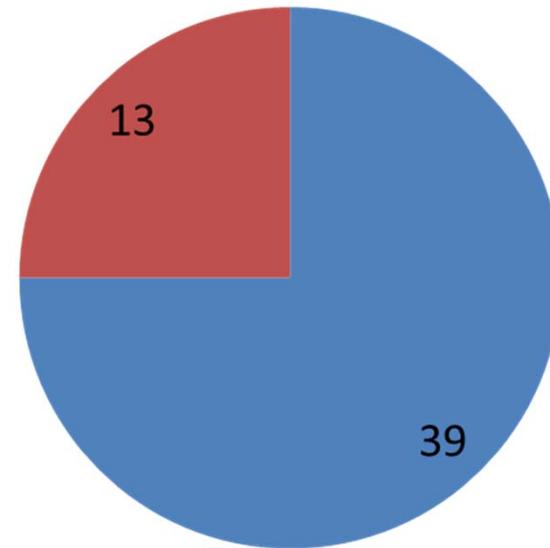
## 52 Disciplinary Actions



- 49 (94.2%) Agreed Final Orders & Voluntary Surrenders
- 1 (2%) Litigated / SOAH Proposal for Decision
- 2 (3.8%) NOAV / Revocation

## Disciplinary Recidivism

- 39 (75%) Distinct Respondents
- 13 (25%) Repeat Offenders



Total Number of Licensees  
(as of August 31, 2014)

**6,856**

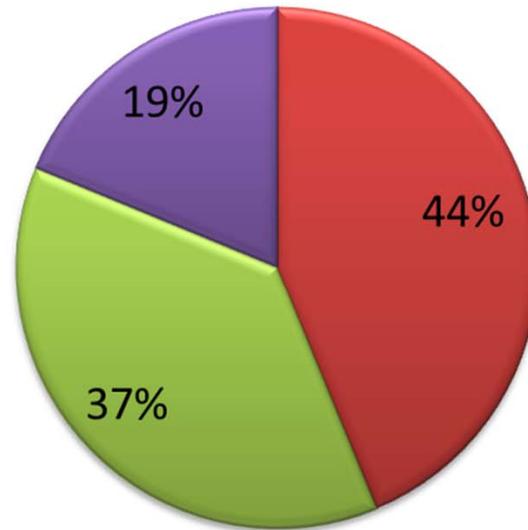
**.2% Recidivism Rate**

# CASE RESOLUTIONS FY 2015

SEPTEMBER 1, 2014 – OCTOBER 31, 2014

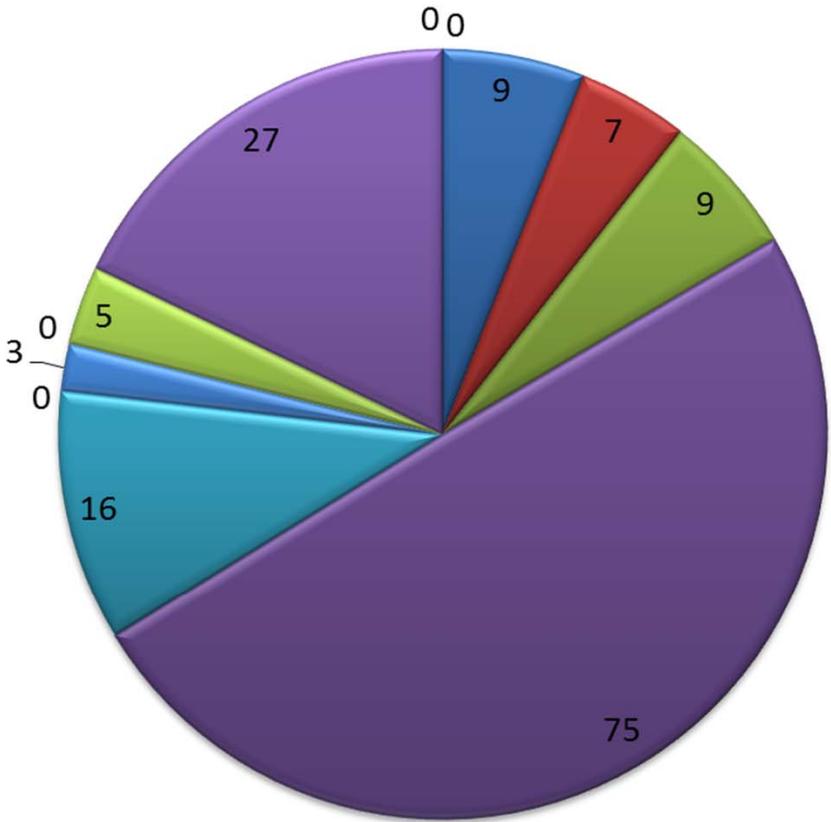
## 16 Total Complaints Resolved

- 0 (0%) Resolved with Disciplinary Action
- 6 (37.5%) Dismissals with Warning Letters
- 0 (0%) Non-Jurisdictional Dismissals
- 7 (43.75%) Dismissals
- 3 (18.75%) Contingent Dismissals



# COMPLAINT SOURCES FY 2014

SEPTEMBER 1, 2013 – AUGUST 31, 2014

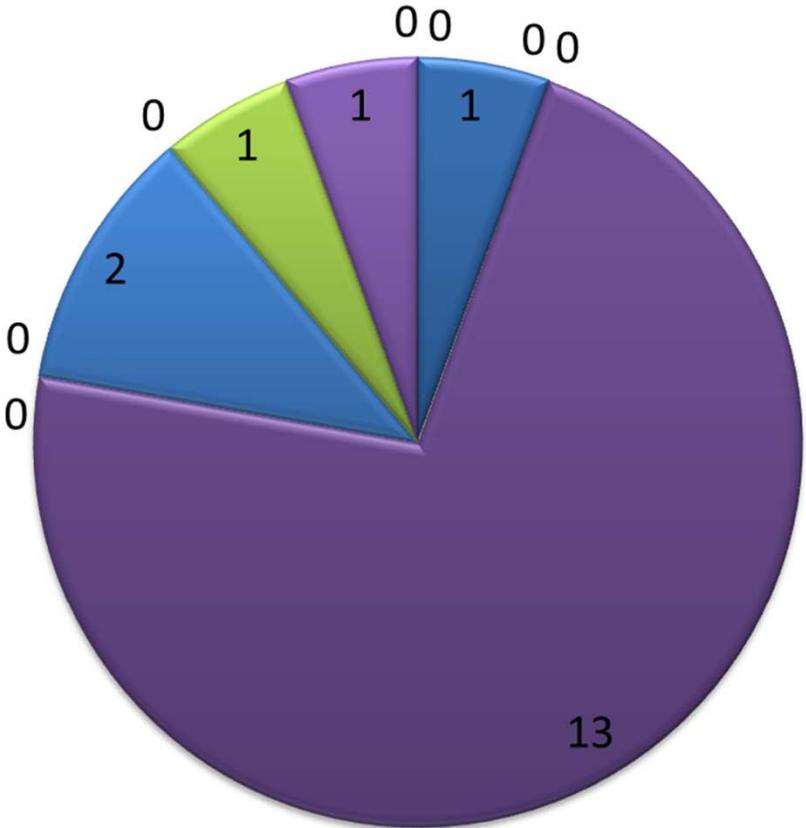


## 151 Total Complaints

- AMC - 9
- Appraisers - 7
- Banks & Thrifts - 9
- Consumers - 75
- Dodd-Frank Referrals - 16
- Federal & State Regulators - 0
- Mortgage Lenders - 3
- Other Governmental Agencies - 0
- Other - 5
- Staff Initiated - 27
- Trade Organizations - 0
- Unknown - 0

# COMPLAINT SOURCES FY 2015

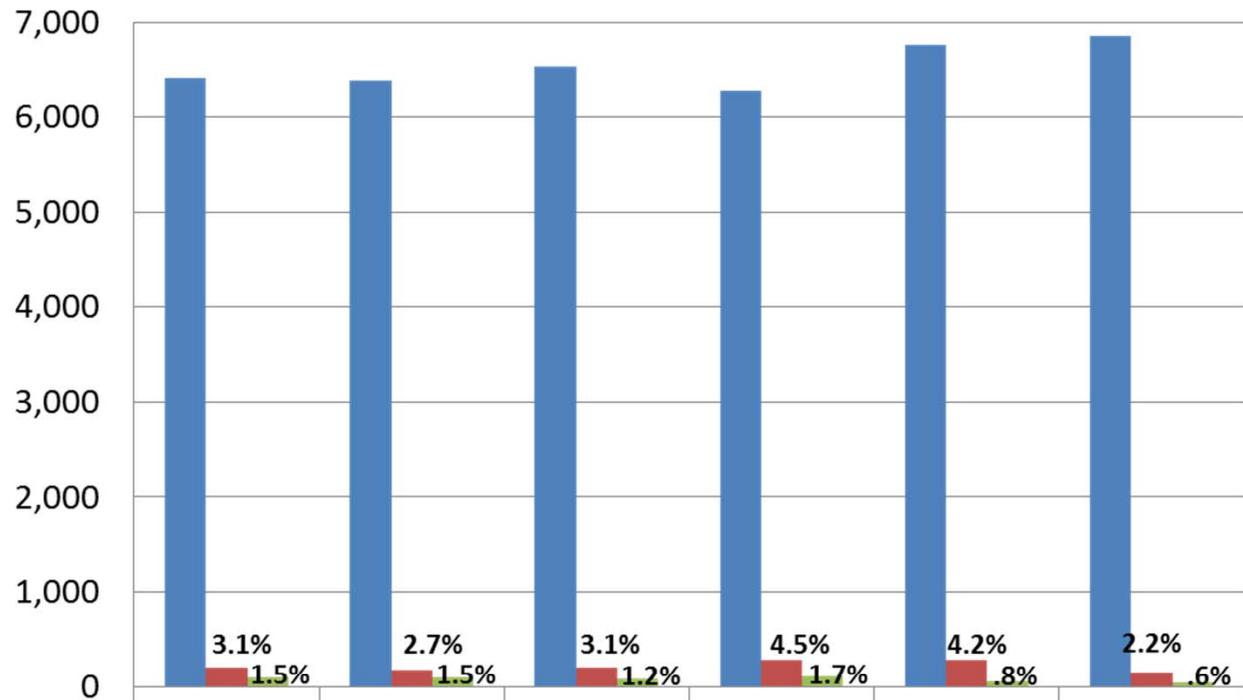
SEPTEMBER 1, 2014 – OCTOBER 31, 2014



## 18 Total Complaints

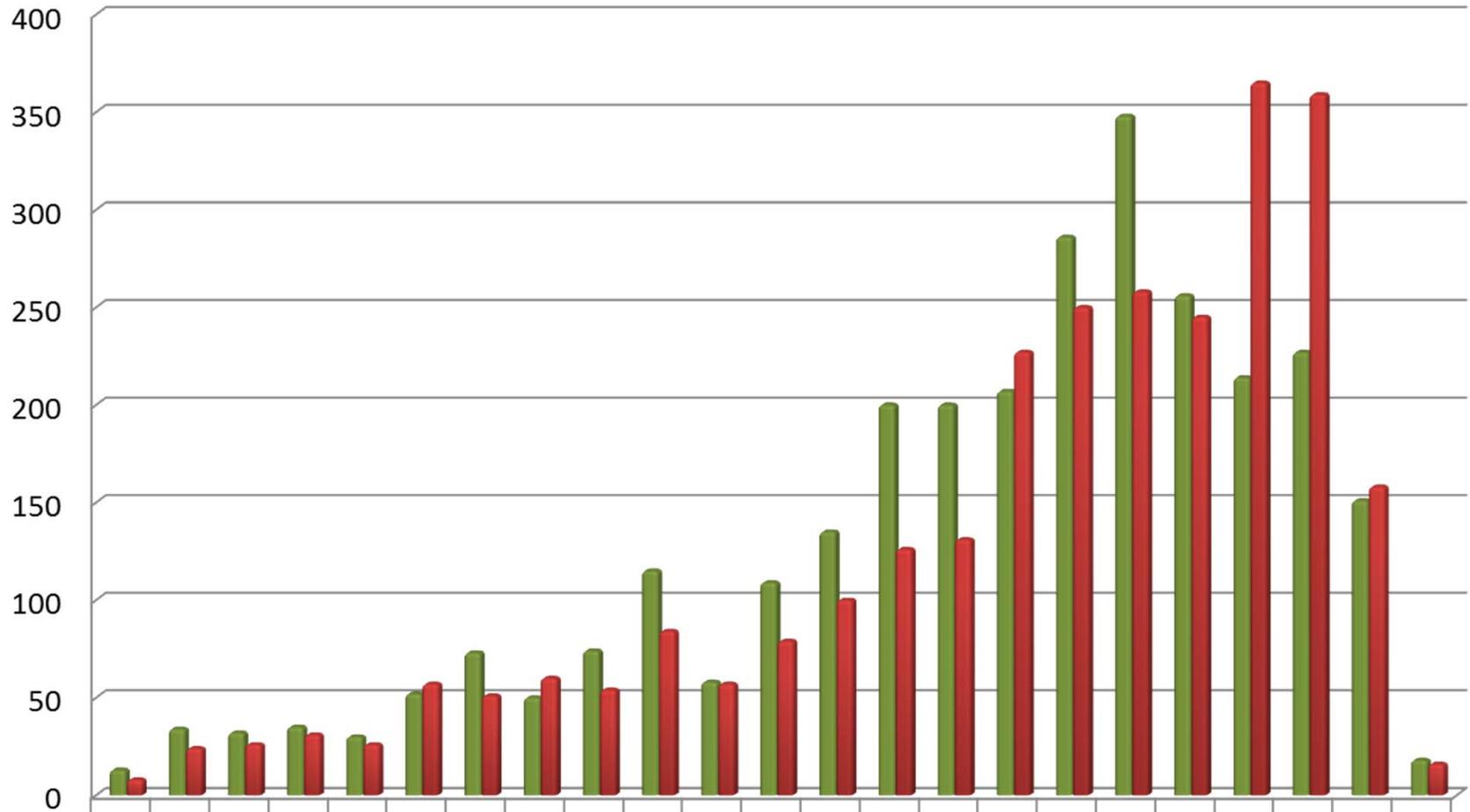
- AMC - 1
- Appraisers - 0
- Banks & Thrifts - 0
- Consumers - 13
- Dodd-Frank Referrals - 0
- Federal & State Regulators - 0
- Mortgage Lenders - 2
- Other Governmental Agencies - 0
- Other - 1
- Staff Initiated - 1
- Trade Organizations - 0
- Unknown - 0

## NO. OF LICENSEES VS. RESPONDENTS WITH COMPLAINTS & DISCIPLINARY ACTIONS



	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<span style="color: blue;">■</span> # of Licensees	6,415	6,385	6,532	6,277	6,761	6,856
<span style="color: red;">■</span> # of Respondents w/Resolved Complaints	198	174	200	285	287	151
<span style="color: green;">■</span> # of Respondents w/Disciplinary Action	94	94	78	105	53	39

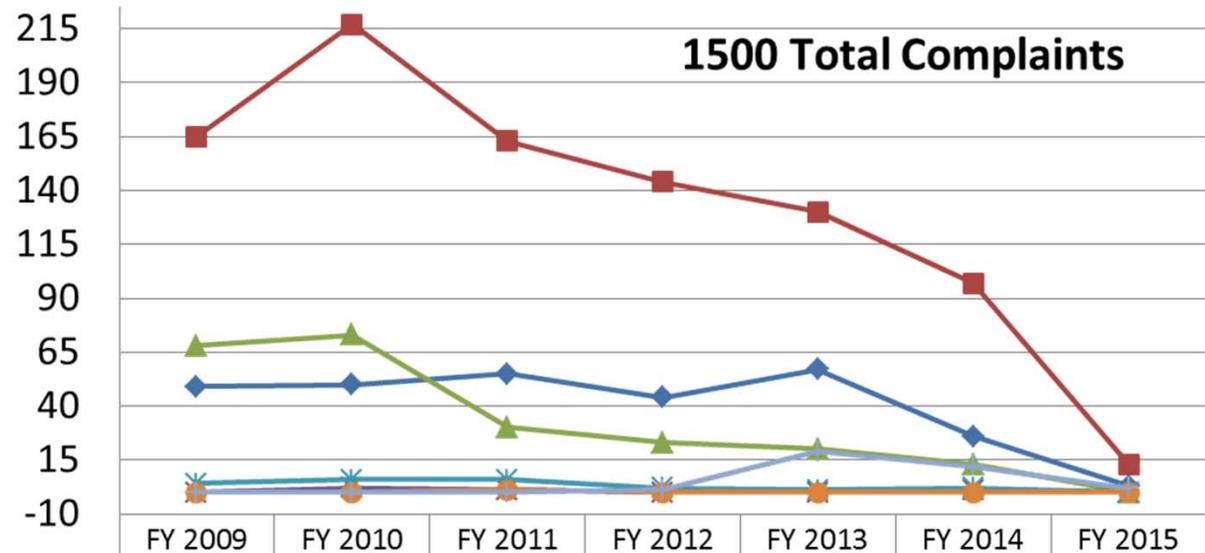
## ENFORCEMENT CASE TRENDS FY 1993 TO FY 2014



	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
Received	13	34	32	35	30	52	73	50	74	115	58	109	135	200	200	207	286	348	256	214	227	151	18
Resolved	8	24	26	31	26	57	51	60	54	84	57	79	100	126	131	227	250	258	245	365	359	158	16

# No. of COMPLAINTS RECEIVED

## PER LICENSE TYPE

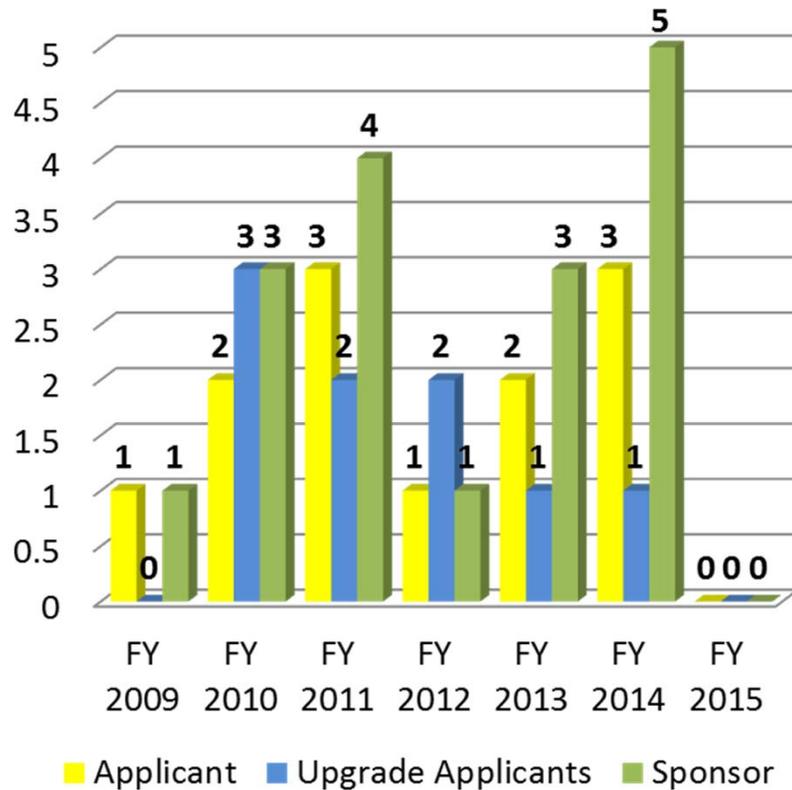


	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
◆ Certified General	49	50	55	44	57	26	3
■ Certified Residential	165	217	163	144	130	97	13
▲ State Licensed	68	73	30	23	20	13	0
✕ Provisional Licensed	0	2	1	0	0	1	0
✱ Appraiser Trainee	4	6	6	2	1	2	0
● Out-of-State Temporary Registrations	0	0	1	0	0	0	0
+ AMCs	0	0	0	1	19	12	2

(as of 10/31/14)

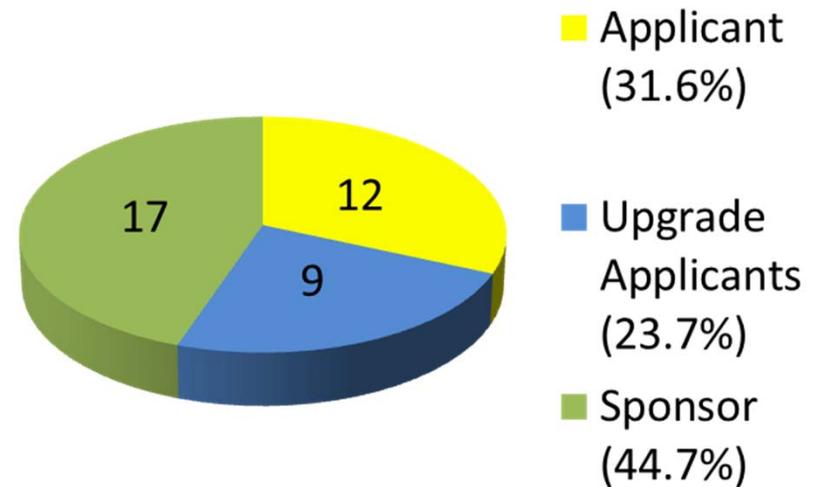
# STAFF-INITIATED COMPLAINTS BASED ON EXPERIENCE AUDITS

No. of Staff-Initiated Complaints  
from Audits per Fiscal Year

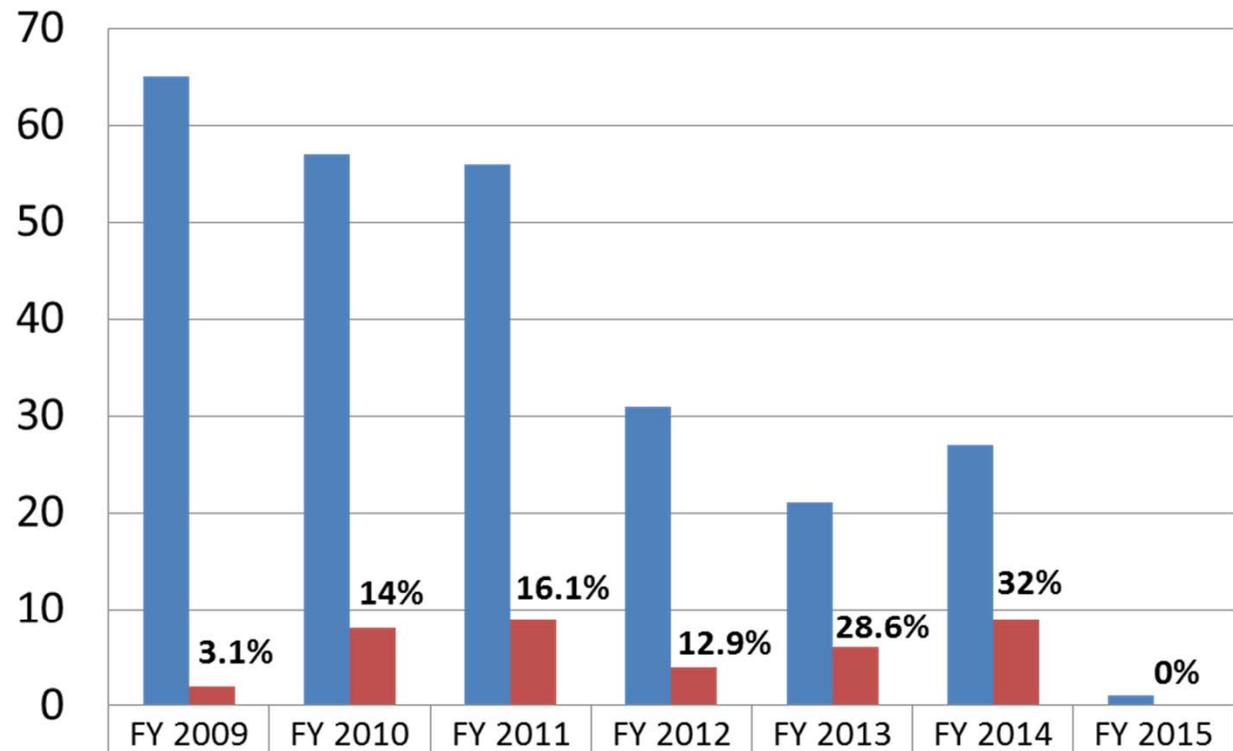


% Of Staff-Initiated Complaints  
from Audits per Respondent Type

38 Total Complaints



# TOTAL STAFF-INITIATED COMPLAINTS VS. STAFF-INITIATED COMPLAINTS FROM AUDITS



■ Total Staff-Initiated Complaints	65	57	56	31	21	27	1
■ Staff-Initiated Complaints from Audits	2	8	9	4	6	9	0



### AGENDA ITEM 15

Report from the Commissioner regarding investigation of staff misconduct allegations

### AGENDA ITEM 16(a)

Discussion and possible action to adopt amendments to 22 TAC §153.1, Definitions.

#### SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.1, Definitions, as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7519). The amendments correct a reference to the Appraiser Qualifications Board (AQB) and eliminate a redundant definition included elsewhere in state law.

#### COMMENTS

No comments were received on the amendments as proposed.

#### STAFF RECOMMENDATION

Adopt rules as published.

#### RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.1, Definitions, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.





**ADOPTION RULE ACTION FROM  
NOVEMBER 21, 2014 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 §153.1. Definitions**

**§153.1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1)ACE--Appraiser Continuing Education.
- (2)Act--The Texas Appraiser Licensing and Certification Act.
- (3)Administrative Law Judge--A judge employed by the State Office of Administrative Hearings (SOAH).
- (4)Analysis--The act or process of providing information, recommendations or conclusions on diversified problems in real estate other than estimating value.
- (5)Applicant--A person seeking a certification, license, approval as an appraiser trainee, or registration as a temporary out-of-state appraiser from the Board.
- (6)Appraisal practice--Valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.
- (7)Appraisal report--A report as defined by and prepared under the USPAP.
- (8)Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.
- (9)Appraisal Subcommittee--The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council or its successor.
- (10)Appraiser Qualifications Board--The Appraiser Qualifications Board (AQB) of the Appraisal Foundation, or its successor.
- (11)Appraiser trainee--A person approved by the Board to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the sponsoring certified appraiser. In addition an appraiser trainee may perform appraisals or appraiser services under the active, personal and diligent supervision of an authorized supervisor as further detailed in this chapter.
- (12)Board--The Texas Appraiser Licensing and Certification Board.
- (13)Classroom hour--Fifty minutes of actual classroom session time.
- (14)Client--Any party for whom an appraiser performs an assignment.
- (15)College--Junior or community college, senior college, university, or any other postsecondary educational institution established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other regional accrediting associations, or is a candidate for such accreditation.
- (16)Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.
- (17)Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.
- (18)Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.
- ~~(19)Contested case--A proceeding in which the legal rights, duties or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing. A matter that is completed~~

## 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

without being referred to SOAH is not a contested case.]

(19) [(20)] Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

(20) [(21)] Day--A calendar day unless clearly indicated otherwise.

(21) [(22)] Distance education--Any educational process based on the geographical separation of student and instructor that provides a reciprocal environment where the student has verbal or written communication with an instructor.

(22) [(23)] Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

(23) [(24)] Federal financial institution regulatory agency--The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successors of any of those agencies.

(24) [(25)] Federally related transaction--Any real estate-related transaction that requires the services of an appraiser and that is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

(25) [(26)] Foundation--The Appraisal Foundation (TAF) or its successor.

(26) [(27)] Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications Board [Boards] as qualifying education.

(27) [(28)] Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the Board.

(28) [(29)] License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

(29) [(30)] License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

(30) [(31)] Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation,

suspension, annulment, withdrawal or amendment of a license.

(31) [(32)] Market analysis--A study of market conditions for a specific type of property.

(32) [(33)] Nonresidential real estate appraisal course--A course with emphasis on the appraisal of nonresidential real estate properties which include, but are not limited to, income capitalization, income property, commercial appraisal, rural appraisal, agricultural property appraisal, discounted cash flow analysis, subdivision analysis and valuation, or other courses specifically determined by the Board.

(33) [(34)] Nonresidential property--A property which does not conform to the definition of residential property.

(34) [(35)] Party--The Board and each person or other entity named or admitted as a party.

(35) [(36)] Person--Any individual, partnership, corporation, or other legal entity.

(36) [(37)] Personal property--Identifiable tangible objects and chattels that are considered by the general public as being "personal," for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery and equipment; all tangible property that is not classified as real estate.

(37) [(38)] Petitioner--The person or other entity seeking an advisory ruling, the person petitioning for the adoption of a rule, or the party seeking affirmative relief in a proceeding before the Board.

(38) [(39)] Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, makes claims, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.

(39) [(40)] Real estate--An identified parcel or tract of land, including improvements, if any.

(40) [(41)] Real estate-related financial transaction--Any transaction involving: the sale, lease, purchase, investment in, or exchange of real property, including an interest in property or the financing of property; the financing of real property or an interest in real property; or the use of real property or an interest in real property as security for a loan or investment including a mortgage-backed security.

(41) [(42)] Real property--The interests, benefits, and rights inherent in the ownership of real estate.

**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**

(42) [(43)] Record--All notices, pleadings, motions and intermediate orders; questions and offers of proof; objections and rulings on them; any decision, opinion or report by the Board; and all staff memoranda submitted to or considered by the Board.

Texas Appraiser Licensing and Certification Board  
Effective Date:

(43) [(44)] Report--Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

(44) [(45)] Residential property--Property that consists of at least one but not more than four residential units.

(45) [(46)] Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

(46) [(47)] Sponsor or sponsoring appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The sponsor or sponsoring appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.

(47) [(48)] State certified real estate appraiser--A person certified under the Texas Appraiser Licensing and Certification Act.

(48) [(49)] State licensed real estate appraiser--A person licensed under the Texas Appraiser Licensing and Certification Act.

(49) [(50)] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(50) [(51)] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November \_\_\_\_, 2014.

Kristen Worman  
General Counsel





### **AGENDA ITEM 16(b)**

Discussion and possible action to adopt amendments to 22 TAC §153.5, Fees.

#### **SUMMARY**

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.5, Fees, as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7521). The amendments are made as part of the FY2015 budget adopted by the TALCB to reduce renewal fees for license holders.

#### **COMMENTS**

No comments were received on the amendments as proposed.

#### **STAFF RECOMMENDATION**

Adopt rules as published.

#### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.5, Fees, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.





**ADOPTION RULE ACTION FROM  
NOVEMBER 21, 2014 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 §153.5. Fees**

**§153.5. Fees.**

(a)The Board shall charge and the Commissioner shall collect the following fees:

- (1)a fee of \$400 for an application for a certified general appraiser license;
- (2)a fee of \$350 for an application for a certified residential appraiser license;
- (3)a fee of \$325 for an application for a state appraiser license;
- (4)a fee of \$300 for an application for an appraiser trainee license;
- (5)a fee of ~~\$360~~ [~~\$370~~] for a timely renewal of a certified general appraiser license;
- (6)a fee of ~~\$310~~ [~~\$320~~] for a timely renewal of a certified residential appraiser license;
- (7)a fee of ~~\$290~~ [~~\$295~~] for a timely renewal of a state appraiser license;
- (8)a fee of ~~\$250~~ [~~\$270~~] for a timely renewal of an appraiser trainee license;
- (9)a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;
- (10)a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;
- (11)a fee of \$250 for nonresident license;
- (12)the national registry fee in the amount charged by the Appraisal Subcommittee;
- (13)an application fee for licensure by reciprocity in the same amount as the fee charged for a similar license issued to a Texas resident;
- (14)a fee of \$40 for preparing a certificate of licensure history, active licensure, or sponsorship;

(15)a fee of \$20 for an addition or termination of sponsorship of an appraiser trainee;

(16)a fee of \$20 for replacing a lost or destroyed license;

(17)a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(18)a fee of \$200 for an extension of time to complete required continuing education;

(19)a fee of \$25 to request a license be placed on inactive status;

(20)a fee of \$50 to request a return to active status;

(21)a fee of \$50 for evaluation of an applicant's criminal history;

(22)an examination fee as provided in the Board's current examination administration agreement.

(23)a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(24)any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b)Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within thirty days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

**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**

(c)Licensing fees are waived for members of the Board staff who must maintain a license for employment with the Board only and are not also using the license for outside employment.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November \_\_\_\_, 2014.

Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Effective Date:



## AGENDA ITEM 17

Discussion and possible action to adopt amendments to 22 TAC §157.31, Investigative Conference.

### SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.31, Investigative Conference, as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7522). The amendments are adopted to clarify the information that will be provided to a respondent prior to holding an investigative conference.

### COMMENTS

No comments were received on the amendments as proposed.

### STAFF RECOMMENDATION

Adopt rules as published.

### RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §157.31, Investigative Conference, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.





**ADOPTION RULE ACTION FROM  
NOVEMBER 21, 2014 MEETING OF  
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**Chapter 157. Rules Relating to Practice and Procedure**

**22 TAC §157.31. Investigative Conference**

**§157.31. Investigative Conference.**

(a) A respondent may meet with the Board for an investigative discussion of the facts and circumstances of the alleged violations.

(b) A respondent may, but is not required to, have an attorney or other advocate present at an investigative conference.

(c) A respondent will be provided with a list of topics that may be discussed [~~the investigative report~~] and a Statement of Investigative Conference Procedures and Rights (IC Form) not later than three (3) days prior to the date of the investigative 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 investigative conference.

(d) At its sole discretion, the Board may provide a copy of the investigative report to the respondent or respondent's attorney for the purpose of advancing case settlement or resolution.

(e) [~~(d)~~] Participation in an investigative conference is not mandatory and may be terminated at any time by either party.

(f) [~~(e)~~] At the conclusion of the investigative conference, the Board staff 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.

(g) [~~(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 investigative conference.

(h) [~~(g)~~] If the parties cannot reach a settlement not later than ten (10) days following the date of the investigative conference, the matter will be referred to the Director of Standards and Enforcement Services to pursue appropriate action.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November \_\_\_, 2014.

Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Effective Date:





## AGENDA ITEM 18

Discussion and possible action to adopt amendments to 22 TAC Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act:

- a. 22 TAC §159.1. Definitions
- b. 22 TAC §159.3. Appraisal Management Company Advisory Committee
- c. 22 TAC §159.4. Jurisdiction and Exemptions
- d. 22 TAC §159.52. Fees
- e. 22 TAC §159.101. Registration Requirements
- f. 22 TAC §159.102. Eligibility for Registration; Ownership
- g. 22 TAC §159.103. Applications
- h. 22 TAC §159.104. Primary Contact; Appraiser Contact
- i. 22 TAC §159.105. Denial of Registration
- j. 22 TAC §159.107. Expiration
- k. 22 TAC §159.108. Renewal
- l. 22 TAC §159.109. Inactive Status
- m. 22 TAC §159.154. Competency of Appraisers
- n. 22 TAC §159.155. Periodic Review of Appraisals
- o. 22 TAC §159.156. Business Records
- p. 22 TAC §159.157. Compensation of Appraisers
- q. 22 TAC §159.159. Disclosure of Registered Name and Registration Number
- r. 22 TAC §159.161. Appraiser Panel
- s. 22 TAC §159.162. Dispute Resolution
- t. 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration
- u. 22 TAC §159.204. Complaint Processing

### SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act, as published in the September 19, 2014 issue of the *Texas Register* (39 TexReg 7523). The amendments are made following a comprehensive rule review for this Chapter to better reflect current TALCB procedures and to simplify and clarify where needed. Specific amendments allow an Appraisal Management Company (AMC) to renew its license on inactive status and reduce the percentage of annual appraisal reviews an AMC must perform from five to two percent.



## COMMENTS

Two comments were received on the amendments as proposed. One commenter was a trade association and the other commenter was a law firm who represents AMCs. Both commenters support the reduction in the total percentage of appraisals that must be reviewed by an AMC on an annual basis. In addition, one commenter supports the clarification requiring a license holder to utilize an AMC's dispute resolution process before filing a complaint against an AMC with the TALCB.

## STAFF RECOMMENDATION

Adopt rules as published.

## RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to §159.1, Definitions; §159.3, Appraisal Management Company Advisory Committee; §159.4, Jurisdiction and Exemptions; §159.52, Fees; §159.101, Registration Requirements; §159.102, Eligibility for Registration; Ownership; §159.103, Applications; §159.104, Primary Contact; Appraiser Contact; §159.105, Denial of Registration; §159.107, Expiration; §159.108, Renewal; §159.109, Inactive Status; §159.154, Competency of Appraisers; §159.155, Periodic Review of Appraisals; §159.156, Business Records; §159.157, Compensation of Appraisers; §159.159, Disclosure of Registered Name and Registration Number; §159.161, Appraiser Panel; §159.162, Dispute Resolution; §159.201, Guidelines for Revocation, Suspension, or Denial of a Registration; and §159.204, Complaint Processing, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.



**ADOPTION RULE ACTION FROM  
NOVEMBER 21, 2014 MEETING OF  
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company  
Registration and Regulation Act**

**22 TAC §159.1. Definitions, 22 TAC §159.3. Appraisal Management Company Advisory Committee, 22 TAC §159.4. Jurisdiction and Exemptions, 22 TAC §159.52. Fees, 22 TAC §159.101. Registration Requirements, 22 TAC §159.102. Eligibility for Registration; Ownership, 22 TAC §159.103. Applications, 22 TAC §159.104. Primary Contact; Appraiser Contact, 22 TAC §159.105. Denial of Registration 22 TAC §159.107. Expiration, 22 TAC §159.108. Renewal, 22 TAC §159.109. Inactive Status, 22 TAC §159.154. Competency of Appraisers, 22 TAC §159.155. Periodic Review of Appraisals, 22 TAC §159.156. Business Records, 22 TAC §159.157. Compensation of Appraisers, 22 TAC §159.159. Disclosure of Registered Name and Registration Number, 22 TAC §159.161. Appraiser Panel, 22 TAC §159.162. Dispute Resolution, 22 TAC §159.201. Guidelines for Revocation, Suspension, or Denial of a Registration, 22 TAC §159.204. Complaint Processing**

**§159.1. Definitions.**

(a) AMC--Appraisal management company.

(b) AMC Act--Chapter 1104, Texas Occupations Code, Texas Appraisal Management Company Registration and Regulation Act.

(c) ~~(b)~~ Administrative law judge--A judge employed by the State Office of Administrative Hearings (SOAH).

(d) ~~(e)~~ Advertising--a written or oral statement or communication by or on behalf of an AMC [~~appraisal management company~~] that induces or attempts to induce a member of the public to use the services of the AMC, including but not limited to all publications, radio or television broadcasts, all electronic media including email, text messages, social networking websites, and the Internet, business stationery, business cards, signs and billboards.

(e) ~~(d)~~ Applicant--A person seeking to become registered under the AMC Act [~~Chapter 1104 of the Texas Occupations Code~~].

(f) ~~(e)~~ Appraisal firm--An entity that employs appraisers on an exclusive basis and receives

compensation for performing appraisals and issuing appraisal reports in its own name.

(g) ~~(f)~~ Appraiser contact--A person designated by an AMC pursuant to §1104.103(b)(6) of the AMC [~~Texas Appraisal Management Company Registration and Regulation~~] Act to respond to and communicate with appraisers on the AMC's [~~company's~~] appraisal panel regarding appraisal assignments.

(h) Board--The Texas Appraiser Licensing and Certification Board.

(i) ~~(g)~~ Commissioner--The Commissioner of the [~~Texas Appraiser Licensing and Certification~~] Board.

~~(h) Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing. A matter that is completed without being referred to SOAH is not a contested case.~~

(j) ~~(i)~~ Day--A calendar day unless clearly indicated otherwise.

(k) License--The whole or a part of any Board permit, certificate, approval, registration or similar

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form of permission required by Chapter 1103 or 1104, Texas Occupations Code.

(l) License holder--A person licensed or registered by the Board under the AMC Act.

(m) [(j)] Party--The Board and each person named or admitted as a party.

(n) [(k)] Person--Any individual, partnership, corporation, or legal entity.

[(l)] Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.]

(o) [(m)] Primary contact--A person who meets the definition of "controlling person" in §1104.003 of the AMC [the Texas Appraisal Management Company Registration and Regulation] Act and is designated by an AMC pursuant to §1104.104 of the AMC Act as the primary contact for all communication between the Board [board] and the AMC [company].

[(n)] Registrant--A person registered as an appraisal management company by the Board under the Texas Appraisal Management Company Registration and Regulation Act.]

(p) [(o)] Respondent--Any person subject to the jurisdiction of the Board, registered or unregistered, against whom any complaint has been made.

[(p)] Rule--Any Board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board and is filed with the Texas Register.]

(q) SOAH--State Office of Administrative Hearings.

(r) USPAP--Uniform Standards of Professional Appraisal Practice.

***§159.3. Appraisal Management Company Advisory Committee.***

(a) A quorum of the committee consists of two members.

(b) The committee may meet at the call of the chair or upon the request of a majority of its members. The committee shall meet at the request of the Board.

(c) Unless state law or Board rules require otherwise, meetings [Meetings] shall be conducted in accordance with [the Texas Open Meetings Act and] Robert's Rules of Order.

(d) At the end of a term, members shall continue to serve until their successors are qualified.

***§159.4. Appraisal Management Company Advisory Committee.***

(a) This chapter does not apply to appraisal management services provided:

(1) for the appraisal of:

(A) commercial property; or

(B) residential properties of more than four units;

or

(2) by persons exempted under §1104.004, the AMC Act [Texas Occupations Code].

(b) For the purposes of §1104.004 of the AMC Act[; Texas Occupations Code]:

(1) a person exclusively employs appraisers on an employer and employee basis for the performance of appraisals if the person does not also employ appraisers as independent contractors or under any other arrangement;

(2) a person employs not more than 15 appraisers on an exclusive basis as independent contractors for the performance of appraisals if:

(A) the person prohibits the independent contractors from performing appraisals for others; and

(B) the person does not employ more than 15 appraisers as independent contractors at any time;

(3) a subsidiary of a financial institution is not a department or unit within the institution;

(4) an AMC [~~appraisal management company~~] that requires an employee of the AMC [~~appraisal management company~~] who is an appraiser who provided no significant real property appraisal assistance to sign an appraisal that is completed by another appraiser who contracts with the AMC [~~appraisal management company in order to avoid the requirements of Chapter 1104, Texas Occupations Code~~], is not exempt from the registration requirement or other requirements of the AMC Act [chapter]; and

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(5)an AMC [~~appraisal management company~~] has an appraisal panel of not more than 15 appraisers at all times during a calendar year if:

(A)the AMC [~~it~~] does not have more than 15 appraisers on its panel at any time; ~~and~~[-]

(B)an appraiser who has been removed from the AMC's panel is not added back to the panel within 12 months after the date of removal.

(c)A person may solicit prospective panelists in anticipation of acting as an AMC [~~appraisal management company~~] without being registered as an AMC, provided that it is registered prior to forming a panel, accepting an appraisal assignment, or performing any other act constituting an appraisal management service.

(d)For the purposes of the AMC Act, a property is located in Texas if it is located wholly or partly in the state.

**§159.52. Fees.**

(a)The Board will [~~shall~~] charge and the Commissioner will [~~shall~~] collect the following fees:

(1)a fee of \$3,300 for an application for a two-year registration;

(2)a fee of \$3,300 for a timely renewal of a two-year registration;

(3)a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a registration within 90 days of expiration; a fee equal to two times the timely renewal fee for the late renewal of a registration more than 90 days but less than six months after expiration;

(4)the national registry fee in the amount charged by the Appraisal Subcommittee for the AMC [~~appraisal management company~~] registry;

(5)a fee of \$10 for each appraiser on a panel at the time of renewal of a registration;

(6)a fee of \$10 to add an appraiser to a panel in the Board's records;

(7)a fee of \$10 for the termination of an appraiser from a panel;

(8)a fee of \$25 to request a registration be placed on inactive status;

(9)a fee of \$50 to return to active status;

(10)a fee of \$40 for preparing a certificate of licensure history or active licensure;

(11)a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(12)a fee of \$20 for filing any request to change an owner, primary contact, appraiser contact, registered business name or place of business;

(13)a fee of \$50 for evaluation of an owner or primary contact's background history not submitted with an original application or renewal;

(14)a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(15)any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b)Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within 30 days, for whatever reason, must [~~shall~~] submit all future fees in the form of a cashier's check or money order.

(c)AMCs registered with the Board must [~~shall~~] pay any annual registry fee as required under federal law. All registry fees collected by the Board will [~~shall~~] be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board will [~~shall~~] send the fees to the Appraisal Subcommittee as required by federal law.

**§159.101. Use of Business Name [~~Registration Requirements~~].**

A license holder must [~~registrant shall~~] notify the Board, on a form approved by the Board [~~for the purpose~~], within 30 days after the license holder [~~registrant~~] starts or stops using a business name [~~in business~~] other than the name in which the license holder [~~it~~] is registered.

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**§159.102. Eligibility for Registration; Ownership.**

For the purpose of certifying to the Board that an applicant has reviewed the owners of the entity as required by the AMC Act and that no such owner has had a license [~~or certificate~~] to act as an appraiser denied, revoked, or surrendered in lieu of revocation unless the license [~~or certification~~] was subsequently granted or reinstated, the applicant may rely on the Appraisal Subcommittee's online National Registry [~~license/certification~~] database.

**§159.103. Applications.**

- (a) An application must be accompanied by one completed and signed Owner/Primary Contact Background History form for the primary contact and each owner of more than 10% of the company.
- (b) An application may be rejected if incomplete.
- (c) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the Board makes written request for the information or documentation.
- (d) License holders must [~~Registrants shall~~] retain documents establishing ownership for a period of five years from the date the application was filed.

**§159.104. Primary Contact; Appraiser Contact.**

- (a) A license holder must [~~registrant shall~~] give the Board written notice of any change to the contact information for its primary contact or appraiser contact within 15 days of the change.
- (b) If a license holder's [~~registrant's~~] primary contact or appraiser contact changes, the license holder must [~~registrant shall~~] give the Board written notice of the change, including all information required by §1104.103(b)(4) and [~~or~~] (6) [~~;~~] of the AMC Act [~~Texas Occupations Code~~], and, if appropriate, documentation that the person is qualified to serve under §1104.104(b) of the AMC Act [~~Texas Occupations Code~~], within 15 days of the change.

(c) A license holder must [~~registrant shall~~] give the Board written notice within 15 days if its primary contact or appraiser contact ceases to serve in that role and a qualified replacement is not immediately named. If a license holder's [~~registrant's~~] primary contact or appraiser contact ceases to [~~be~~] serve in that role and the license holder [~~registrant~~] does not give the Board written notice of a replacement, the license holder will [~~registrant shall~~] be placed on inactive status.

(d) A primary contact who assumes that role during the term of the registration must [~~shall~~] provide the Board written consent to a criminal history background check, as required by §1104.102 of the AMC Act [~~Texas Occupations Code~~]. If the person does not satisfy the Board's moral character requirements, the Board will [~~shall~~] remove the person from its records and the license holder [~~registrant~~] will be placed on inactive status. Such a decision by the Board [~~staff~~] may be reviewed and reconsidered by the Commissioner if the license holder [~~registrant~~] submits a written request for reconsideration within ten days of notice that the person does not qualify to serve as primary contact. The license holder [~~registrant~~] will remain on inactive status while the request for reconsideration is pending.

(e) The appraiser contact must hold an active, current license [~~or certification~~] issued by an appraiser regulatory agency within the jurisdiction of the Appraisal Subcommittee.

**§159.105. Denial of Registration.**

- (a) AMCs [~~Appraisal management companies~~], persons who own more than 10% of an AMC, and individuals who act as the primary contact for an AMC must be honest, trustworthy, and reliable. Accordingly, such persons must satisfy the Board of their honesty, integrity, and trustworthiness before a registration may be issued or renewed.
- (b) The board deems the following felonies and misdemeanors directly related to the field of appraisal management and suggestive of a lack of the requisite moral character:
  - (1) offenses involving fraud or misrepresentation;

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(2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;

(3) offenses against public administration;

(4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;

(5) offenses involving moral turpitude; and

(6) offenses of attempting or conspiring to commit any of the foregoing offenses.

(c) In determining whether a criminal offense by an applicant, the primary contact, or an owner of more than 10% of the AMC prevents the issuance of a registration, the Board will [~~shall~~] consider the following factors:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a registration to provide appraisal management services;

(3) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that which the person had previously been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to be involved, directly or indirectly, in performing the duties and discharge the responsibilities of AMC [~~appraisal management company~~].

(d) In determining the present fitness of a person who has committed an offense under this section, the Board will [~~board shall~~] consider the following evidence:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness including letters of recommendation from prosecution, law enforcement, and correctional

officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the person.

(e) A person is presumed to lack the requisite moral character if less than two years has elapsed since the offense was committed.

(f) An applicant is presumed to be unfit to perform appraisal management services if the person has violated the appraiser independence standards of Section 129E of the Truth in Lending Act (15 U.S.C. §1601 et seq.). This presumption may be rebutted [~~ebuted~~] by credible evidence to the contrary.

(g) It is [~~shall be~~] the responsibility of the applicant to the extent possible to secure and provide the Board [~~board~~] the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the Board [~~board~~], relating to whether the applicant has maintained a record of steady employment, has maintained a record of good conduct, and is current on the payment of any outstanding court costs, supervision fees, fines, and restitution.

(h) A currently incarcerated individual does not possess the required good moral character.

(i) The primary contact and each owner of more than 10% of the AMC [~~appraisal management company~~] must consent in writing to a criminal history background check at the time the company submits an application.

(j) An application for renewal that is proposed to be denied by Standards and Enforcement Services Division staff may be reviewed and reconsidered by the Commissioner if the applicant submits a written request for reconsideration within ten days of notice of the proposed denial. The right to request reconsideration is distinct from, and in addition to, an applicant's right to appeal a proposed denial before SOAH [~~the State Office of Administrative Hearings~~].

**§159.107. Expiration.**

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A registration is valid for the term for which it is issued by the Board [~~unless suspended or revoked for cause~~].

**§159.108. Renewal.**

(a)The Board will [~~shall~~] send a renewal notice to the license holder's [~~registrant's~~] primary contact at least 180 days prior to the expiration of the license [~~registration~~].

(b)To renew a license, a license holder must:

(1)submit an application as required by §1104.103 of the AMC Act; and

(2)pay all applicable renewal fees established in §159.52 of this chapter.

(c)[~~(b)~~] It is the responsibility of the license holder [~~Registrant~~] to apply for renewal in accordance with [~~Chapter 1104, Texas Occupations Code, and~~] this section [~~chapter~~] sufficiently in advance of the expiration date to ensure that all renewal requirements, including background checks, are satisfied before the expiration date of the license [~~registration~~].

(d)Failure to receive a renewal notice from the Board [~~board~~] does not relieve the license holder [~~registrant~~] of the responsibility to timely apply for renewal.

(e) [~~(c)~~] An application for renewal is not complete, and no renewal will issue, until all application requirements are satisfied.

**§159.109. Inactive Status.**

(a)To elect to be placed on inactive status, a license holder [~~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 license holder [~~registrant~~] has given written notice of its election to go inactive to all appraisers listed on the license holder's [~~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 license holder must [~~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 license holder [~~registrant~~] that has elected or been placed on inactive status may not engage in any activity for which registration is required until an active registration has been issued by the Board.

(d)The appraiser panel of a license holder [~~registrant~~] on inactive status will remain in place [~~until the registrant's next renewal date~~].

(e)A license holder [~~registrant~~] may [~~not~~] renew on inactive status. To renew on inactive status, a license holder [~~An inactive registrant~~] must satisfy:

(1)all requirements under subsection (a) of this section; and

(2)all renewal requirements for an active registration under §159.108 of this chapter.

**§159.154. Competency of Appraisers.**

(a)In addition to verifying an appraiser's licensure [~~or certification~~] as required by §1104.152 of the AMC Act, an AMC must, at the time of or before making an assignment to an appraiser, obtain a written certification from the appraiser that the appraiser:

(1)is competent in the property type of the assignment;

(2)is competent in the geographical area of the assignment;

(3)has access to appropriate data sources for the assignment;

(4)will immediately notify the AMC if the appraiser later determines that he or she is not qualified under paragraph (1), (2), or (3) of this subsection to complete the assignment; and

(5)is aware that misrepresentation of competency is subject to the mandatory reporting requirement in §1104.160 of the AMC Act.

(b)An AMC that has reviewed an appraiser's work must [~~shall~~] consider the findings of the review in verifying competency for the purpose of assigning future work.

(c)For the purposes of verifying that an appraiser has not had a license [~~or certification as an appraiser~~] denied in another jurisdiction, an AMC may rely on information provided by the appraiser.

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**§159.155. Periodic Review of Appraisals.**

(a) A license holder must ~~[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 USPAP ~~[the Uniform Standards of Professional Appraisal Practice (USPAP)]~~ of:

(1) one of the first five appraisals performed for the license holder ~~[registrant]~~ by each appraiser, prior to making a sixth assignment; and

(2) a total of two ~~[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) Appraisals performed pursuant to subsection (a)(1) of this section will ~~[shall]~~ be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by the AMC Act ~~[Chapter 1104 of the Texas Occupations Code]~~, to be registered with the Board.

(d) In addition to satisfying the requirements of §1104.153 of the AMC Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.

(e) A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.

(f) An appraiser conducting a review under §1104.155 of the AMC Act and this rule must ensure compliance with the USPAP and with §1104.154 of the AMC Act.

(g) In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP, a license holder ~~[registrant]~~ performing a review must adhere to the following minimum scope of work:

(1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of

the comparables and the essential elements of the transactions including:

(A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;

(B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;

(C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and

(D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review ~~[, the scope of review must include research and consultation of that];~~

(2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements;

(3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;

(4) identify the client, any intended users and the effective date of the appraisal review;

(5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the AMC Act and this rule, including ensuring that the appraisal under review complies with the ~~[edition of]~~ USPAP edition in effect at the time of the appraisal;

(6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the AMC Act, this rule and USPAP

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edition in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;

(7) identify the appraisal under review, including:

(A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review;

(B) the report date and effective date of the appraisal under review;

(C) the effective date of the opinions or conclusions in the appraisal under review;

(D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and

(E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;

(8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and

(9) contain a certification which complies with USPAP Standards Rule 3-6.

(h) While not required by §1104.155 of the AMC Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.

**§159.156. Business Records.**

(a) For the purposes of the requirement in §1104.156(c) of the AMC Act regarding retention of written records of substantive communications between an AMC and an appraiser, a communication is substantive if it relates to the appraiser's qualifications or to the scope of work of an assignment.

(b) An AMC may not require an appraiser to keep confidential the existence of the appraiser's business

relationship with an AMC or the fact that the appraiser has received any specific assignment from the AMC to perform an appraisal [~~confidential~~].

(c) A business entity registered as an AMC must maintain documentation showing that it has complied with the requirements contained in its governing documents for changing officers or managers. The business entity must promptly provide to the Board [~~TALCB~~] upon request all business formation, ownership and representative authorization records and changes thereto required to be kept by the business entity by law.

(d) Written records include electronic records.

**§159.157. Compensation of Appraisers.**

(a) A license holder must [~~registrant shall~~] compensate the appraisers on the panel based on a compensation policy, established by the license holder [~~registrant~~], that provides for customary and reasonable fees by taking into consideration the requirements of and any presumptions available under federal law.

(b) A license holder must [~~registrant shall~~] reassess its compensation policy at least annually and shall retain, for a period of five years, records of all compensation information that formed the basis for the policy.

(c) A license holder must [~~registrant shall~~] make any fee schedule adopted under its compensation policy available to each appraiser on its panel [~~any fee schedule adopted under its compensation policy~~].

(d) A license holder may [~~registrant shall~~] not require an appraiser to sign a certification that a fee for an assignment is customary and reasonable.

**§159.159. Disclosure of Registered Name and Registration Number.**

(a) For the purposes of the AMC Act, "documents used to procure appraisals" include written documents and electronic communications, including e-mail, used for that purpose, but does not include general advertisements and supporting documentation.

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(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.

**§159.161. Appraiser Panel.**

(a) If an appraiser is not employed by the AMC or already a member of the AMC's panel, an AMC must add the appraiser to the AMC's panel no later than the date on which the AMC makes an assignment to the appraiser. ~~[An appraisal management company may not make an assignment to an appraiser who is not a member of the AMC's panel at the time of the assignment unless the appraiser is employed by the AMC on an employer-employee basis.]~~

(b) To add an appraiser to a panel, the AMC must ~~[shall]~~:

(1) initiate the appropriate two-party transaction ~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online panel ~~[license]~~ management system, including payment of any required fee(s); or

(2) submit a notice on a form approved by the Board for this purpose, including the signatures of the appraiser and the AMC's primary contact, and the appropriate fee(s).

(c) An appraiser or an AMC may terminate the appraiser's membership on a panel ~~[Either the appraiser or the AMC may terminate an appraiser's membership on a panel]~~ by:

(1) submitting a termination notice electronically ~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online panel ~~[license]~~ management system, including payment of any required fee; or

(2) submitting a notice on a form approved by the Board for this purpose and the appropriate fee(s).

(d) If an appraiser terminates his or her membership on a panel, the appraiser must ~~[he or she shall]~~ immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, the AMC must ~~[it shall]~~ immediately notify the appraiser of the termination.

(e) If an appraiser's license ~~[or certification]~~ expires or is revoked, the Board will ~~[shall]~~ remove the appraiser from any panels on which the appraiser ~~[he or she]~~ is listed with no fee charged to the AMC or to the appraiser.

**§159.162. Dispute Resolution.**

(a) A license holder must provide a dispute resolution process for appraisers. ~~[A registrant's dispute resolution process for appraisers shall provide for:]~~

~~[(1) a written response to the request for review;]~~

~~[(2) a written statement of the outcome of the dispute resolution process; and]~~

~~[(3) copies of all relevant documentation to the appraiser upon written request.]~~

(b) The dispute resolution process must ~~[shall]~~ provide for either:

(1) review by an external third party; or

(2) internal review by a person whose position within the company is above the level of the person responsible for the decision or action under review.

(c) A license holder's dispute resolution process for appraisers must provide for:

(1) a written response to the request for review;

(2) a written statement of the outcome of the dispute resolution process; and

(3) copies of all relevant documentation to the appraiser upon written request.

(d) An appraiser who is aggrieved under §1104.157 or §1104.161 of the AMC Act must utilize the license holder's dispute resolution process before filing a complaint against the AMC with the Board.

**§159.201. Guidelines for Revocation, Suspension, or Denial of a License ~~[Registration]~~.**

(a) The Board may suspend or revoke a license ~~[registration]~~ issued under provisions of the AMC ~~[this]~~ Act, or deny issuing a license ~~[registration]~~ to an applicant, ~~[at]~~ any time ~~[when]~~ it is ~~[has been]~~ determined that the person applying for or holding the license or the AMC's primary contact ~~[registration]~~:

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(1)disregards or violates a provision of the AMC Act or Board rules [~~of the Rules of the Texas Appraiser Licensing and Certification Board~~];

(2)is convicted of a felony;

(3)fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;

(4)fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5)fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6)fails to comply with the USPAP edition [Uniform Standards of Professional Appraisal Practice (USPAP)] in effect at the time of the appraisal or appraisal practice;

(7)acts or holds [~~himself or herself or~~] any [~~other~~] person out as a registered AMC [~~appraisal management company~~] under the AMC Act or another state's act when not so licensed or certified;

(8)accepts payment for appraisal management services but fails to deliver the agreed service in the agreed upon manner;

(9)refuses to refund payment received for appraisal management services when he or she has failed to deliver the appraiser service in the agreed upon manner;

(10)accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate;

(11)offers to perform appraisal management services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate;

(12)makes a material misrepresentation or omission of material fact;

(13)has had a registration as an AMC [~~appraisal management company~~] revoked, suspended, or

otherwise acted against by any other jurisdiction for an act which is an offense under Texas law;

(14)procures a registration pursuant to the AMC Act by making false, misleading, or fraudulent representation;

(15)has had a final civil judgment entered against him or her on any one of the following grounds:

(A)fraud;

(B)intentional or knowing misrepresentation; or

(C)grossly negligent misrepresentation in the making of real estate appraiser services;

(16)fails to make good on a payment issued to the Board within 30 days after the Board has mailed a request for payment by certified mail to the license holder's [~~registrant's~~] primary contact as reflected in [~~by~~] the Board's records;

(17)knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

~~{(18)acts or holds himself or any other person out as a registered appraisal management company under this or another state's Act when not so licensed or certified;}~~

(18) [~~(19)~~] uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to provide appraisal management services;

(19) [~~(20)~~] fails to comply with a final order of the Board; or

(20) [~~(21)~~] fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said person's or primary contact's [~~individual's~~] address of record, or within the time period allowed if granted a written extension by the Board.

(b)The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c)The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1)the type and scope of appraisal management practice;

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(2) requirements for additional education by the AMC's [~~appraisal management company's~~] controlling persons;

(3) monetary administrative penalties; and

(4) requirements for reporting appraisal management activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a registration must comply with all requirements that would apply if the registration [~~license or certification~~] had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the AMC Act or under the laws of this State.

(f) The Board may not investigate under this section a complaint submitted either more than two years after the date of discovery or more than two years after the completion of any litigation involving the incident, whichever event occurs later, involving the AMC [~~appraisal management company~~] that is the subject of the complaint.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there will [~~shall~~] be no undercover or covert investigations conducted by authority of the AMC Act.

~~[(h) All Board members, officers, directors, and employees of this agency shall be held harmless with respect to any disclosures made to the Board in connection with any complaints filed with the Board.]~~

**§159.204. Complaint Processing.**

(a) A complaint must be in writing on a form prescribed by the Board and must be signed by the complainant. Board staff may initiate a complaint.

~~[(1)]~~ Upon receipt of a complaint, staff will [~~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 will [~~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)~~] will [~~shall~~] be referred to the appropriate prosecutorial authorities.

(d) [~~(4)~~] Staff may request additional information necessary to determine how to proceed with the complaint.

(e) [~~(5)~~] A copy of the complaint and all supporting documentation will [~~shall~~] be sent to the Respondent [~~respondent~~] unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) [~~(6)~~] The Respondent must [~~respondent shall~~] submit a response within 20 days of receiving a copy of the complaint. The 20-day period may be extended for good cause upon request in writing or by e-mail.

(1) [~~(A)~~] The response must [~~shall~~] include the following:

(A) [~~(i)~~] a narrative response to the complaint, addressing each and every element thereof;

(B) [~~(ii)~~] a copy of all requested records and any other relevant records;

(C) [~~(iii)~~] 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 [~~respondent's~~] possession, contact information for such persons; and

(D) [~~(iv)~~] the following statement in the letter transmitting the response: EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPIES OF RECORDS ACCOMPANYING THIS RESPONSE ARE TRUE AND CORRECT COPIES OF THE ACTUAL RECORDS.

(2) [~~(B)~~] The Respondent [~~respondent~~] may also address other matters not raised in the complaint that the Respondent [~~respondent~~] believes likely to be raised.

(g) [~~(7)~~] The complaint will [~~shall~~] be assigned to a staff investigator and will [~~shall~~] be investigated by

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the staff investigator or peer investigative committee, as appropriate.

(h) [(8)] The staff investigator or peer investigative committee assigned to investigate a complaint will [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.]

(i) Staff will evaluate the complaint, the Respondent's response, if any, and the investigative report to determine if there is probable cause to believe a violation of the AMC Act or Board rules occurred:

(1) If staff concludes there is no probable cause to believe that a violation of the AMC Act or Board rules occurred, the complaint will be dismissed with no further processing;

(2) If staff concludes there is probable cause to believe that a violation of the AMC Act or Board rules occurred, staff may recommend that the Board enter into an agreed order with the Respondent or, if an agreed resolution cannot be reached, proceed as the complainant in a contested case hearing under Chapter 2001, Government Code.

(j) [(9)] Agreed orders [resolutions of complaint matters] must be signed by the Respondent [respondent], a representative of the Standards and Enforcement Services Division, and the Commissioner.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November \_\_\_\_, 2014.

Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board  
Effective Date:



September 17<sup>th</sup>, 2014

Kristen Worman  
General Counsel  
Texas Appraiser Licensing & Certification Board  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701

RECEIVED  
TEXAS REAL ESTATE COMMISSION  
SEP 19 2014  
CASHIER'S SECTION  
OPERATOR 15

Dear Ms. Worman,

Proposed Rule Change regarding 159.155(a)(2) & 159.155(b). Periodic Review of Appraisals.

The Foundation Appraisers Coalition of Texas' (FACT) purpose is to monitor and affect the regulation of the appraisal profession through legislation, education, and communication.

FACT supports the rule change that allows for a reduction in the total percentage of appraisals that are reviewed on an annual basis by registered Appraisal Management Companies. It is our understanding that this reduction still allows Texas to be compliant with the provisions of Dodd Frank while also protecting the consumers of Texas.

Our membership thanks you for this opportunity to provide comment regarding the proposed revision to Rule 159.155.

Sincerely,

A handwritten signature in black ink that reads "Wendell Wood". The signature is written in a cursive, flowing style.

Wendell Wood, ARA, MAI  
President  
Foundation Appraisers Coalition of Texas

FACT  
PO Box 202197  
Austin, Tx 78720  
512-828-7455 or [admin@supportfact.org](mailto:admin@supportfact.org)  
[www.supportfact.org](http://www.supportfact.org)

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October 20, 2014

Kristen Worman, Esq.  
General Counsel  
Texas Appraiser Licensing and  
Certification Board  
P.O. Box 12188  
Austin, TX 78711-2188  
general.counsel@talcb.state.tx.us

Re: Proposed Amendment of the Rules under the Texas Appraisal  
Management Company Registration and Regulation Act

Dear Ms. Worman,

On behalf of my clients, who are appraisal management companies (“AMCs”) registered with the Texas Appraiser Licensing and Certification Board (the “Board”), I am writing to comment on the amendments that the Board has proposed (the “Proposed Amendments”) to certain of the rules implementing the Texas Appraisal Management Company Registration and Regulation Act, Tex. Occ. Code §§ 1104.001 *et seq.* (the “Act”). Specifically, I write to express support for two of the Proposed Amendments: those two Rules 159.155 (relating to appraisal review) and 159.162 (relating to disputes between appraisers and AMCs).

First, we support the Board’s proposal to amend Rule 159.155 to reduce from five percent to two percent the total percentage of appraisals performed for an AMC in a 12 month period of which the AMC must perform a review that complies with Standard 3 of the Uniform Standards of Professional Appraisal Practice (“USPAP”). We believe that the proposed reduction would be a more reasonable manner of fulfilling the Act’s requirement that each Texas-registered AMC perform on a periodic basis “an appraisal review of the work of appraisers performing appraisal services” for the AMC to ensure compliance with the USPAP and other applicable standards.<sup>1</sup> Adoption of the revised review threshold will help to reduce the compliance burden that Rule 159.155 has imposed on AMCs doing business in Texas.

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<sup>1</sup> Tex. Occ. Code § 1104.155.

October 20, 2014

Page 2

Second, we support the Board's proposed clarification, in Rule 159.162, of the relationship between the Rules' dispute resolution processes and those that an AMC must maintain as a condition of being registered under the Act. Specifically, proposed subsection (d) would require an appraiser aggrieved under Sections 1104.157 or 1104.161 of the Act to "utilize the licensed holder's dispute resolution process before filing a complaint against the AMC with the Board." We believe that mandatory use of an AMC's dispute resolution processes to attempt to resolve issues involving appraiser compensation and removal of an appraiser from an AMC's appraiser panel will reduce the burden on the Board and AMCs that the investigation of complaints imposes without limiting an appraiser's ability to seek redress when he or she feels an AMC has acted unfairly or in violation of the Act. Without such a requirement, AMCs may be required to maintain dispute resolution processes of which an appraiser will never take advantage, negating the need for their existence. As a result, we think the Board's proposed amendment supports the requirements of the Act and Rules for such processes to exist.

We appreciate this opportunity to comment on the Proposed Amendments. If you have any questions about the comments herein, please do not hesitate to contact me.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Nanci L. Weissgold". The signature is written in a cursive, flowing style.

Nanci L. Weissgold

LEGAL02/35155668v1





## AGENDA ITEM 19

Discussion and possible action to adopt repeal of 22 TAC §153.16, Provisional License.

### SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts repeal of 22 TAC §153.16, Provisional License, as published in the May 30, 2014 issue of the *Texas Register* (39 TexReg 4099). The reasoned justification for the repeal is because the TALCB no longer issues provisional licenses.

### COMMENTS

No comments were received on the repeal as proposed.

### STAFF RECOMMENDATION

Adopt repeal as published.

### RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption repeal of 22 TAC §153.16, Provisional License, without changes as published in the *Texas Register*.





**ADOPTION RULE ACTION FROM  
NOVEMBER 21, 2014 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 §153.16. Provisional License**

**~~§153.16. Provisional License.~~**

~~Persons practicing under provisional licensure must maintain a current log of appraisal activities performed on a form prescribed by the board.~~

This agency hereby certifies that the amendments have 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 November \_\_, 2014.

Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board





### **AGENDA ITEM 20(a)**

Discussion and possible action to propose amendments to 22 TAC §153.9, Applications.

#### **SUMMARY**

The amendments are proposed to authorize the Board to evaluate applications consistent with those exceptions authorized by the Appraiser Qualifications Board (AQB), including the exception for service on active duty in the United States armed forces as announced by the AQB on October 21, 2014.

#### **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 §153.9, Applications, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





**PROPOSED RULE ACTION FROM  
NOVEMBER 21, 2014 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 §153.9. Applications.**

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.9. Applications.

The proposed amendments would authorize the Board to evaluate applications consistent with those exceptions authorized by the Appraiser Qualifications Board (AQB).

Kristen Worman, 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. Worman 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 a requirement that is easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto: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 the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

**§153.9. Applications.**

(a)-(g) (No change.)

(h) This subsection applies to an applicant who is serving on active duty or is a veteran of the armed forces of the United States.

(1) The Board will~~shall~~ credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3) The applicant must pass the qualifying examination, if any, for the type of license sought.

(4) The Board will evaluate applications filed by an applicant who is serving on active duty or is a

**TITLE 22. Examining Boards**  
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**Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act**

**veteran of the armed forces of the United States consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.**

(i)-(j) (No change.)

This agency hereby certifies that the proposed amendments have 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 November , 2014.

---

Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board



THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal  
Standards and Appraiser Qualifications*

# FOUNDATION NEWS

On October 21, 2014, the Appraiser Qualifications Board (AQB) adopted an Interpretation to the *Real Property Appraiser Qualification Criteria (Criteria)* that will become effective January 1, 2015. The Interpretation will provide an extension of time for active duty US military to meet the 2008 *Criteria*.

The following is the only exception for implementing the 2015 *Real Property Appraiser Qualification Criteria*:

An applicant in the Reserve components of the US Armed Forces, who was pursuing an appraiser license or certification prior to December 1, 2011, and who was called to active duty between December 1, 2011 and December 31, 2014, may satisfy the qualifications required under the 2008 *Criteria* for an additional time period after January 1, 2015. The extension of time shall be equal to the applicant's time of active duty, plus 12 months.

Please contact Magdalene Vasquez, Qualifications Administrator, at [magdalene@appraisalfoundation.org](mailto:magdalene@appraisalfoundation.org) or (202) 624-3074 with any questions.



## **About The Appraisal Foundation**

The Appraisal Foundation is the nation's foremost authority on the valuation profession. The organization sets the Congressionally-authorized standards and qualifications for real estate appraisers, and provides voluntary guidance on recognized valuation methods and techniques for all valuation professionals. This work advances the profession by ensuring appraisals are independent, consistent, and objective. More information on The Appraisal Foundation is available at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).



**AGENDA ITEM 20(b)**

Discussion and possible action to propose amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors.

**SUMMARY**

The amendments are proposed to make this rule applicable to all appraiser trainees and sponsors and require all appraiser trainees and sponsors to take the appraiser trainee/sponsor course within four years of their license renewal date. This requirement will become effective for all license holders September 1, 2015. The Education Committee recommends this amendment to the Board.

**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 §153.21, Appraiser Trainees and Sponsors, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





**PROPOSED RULE ACTION FROM  
NOVEMBER 21, 2014 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 §153.21. Appraiser Trainees and Sponsors.**

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.21. Appraiser Trainees and Sponsors.

The proposed amendments would make this rule applicable to all appraiser trainees and sponsors and require all appraiser trainees and sponsors to take the appraiser trainee/sponsor course within four years of their license renewal date. This requirement will become effective for all license holders September 1, 2015.

Kristen Worman, 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. Worman 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 a better educated license holder and a requirement that is easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed 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 the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

**§153.21 Appraiser Trainees and Sponsors.**

(a) A person desiring to be an appraiser trainee may apply to the Board on the approved application form for trainee authorization. In addition to the requirements set forth in §1103.353 of the Act, a prospective appraiser trainee must:

- (1) complete 75 creditable classroom hours as set forth in the Trainee Core Curriculum of the AQB;
- (2) pass the 15-hour National USPAP course and examination; and
- (3) ~~[beginning January 1, 2015,]~~ complete a Board approved Appraiser Trainee/Sponsor course.

**TITLE 22. Examining Boards**

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

(b) Once a person is licensed as an appraiser trainee by the Board, the person may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a sponsoring appraiser. The trainee's authorization to perform appraisals or appraisal services terminates if:

(1) the appraiser trainee license expires due to nonpayment of the renewal fee or failure to satisfy the educational or experience requirements for renewal; or

(2) the appraiser trainee's authority to act has been suspended or revoked by the Board.

(c) The sponsoring appraiser shall immediately notify the Board and the trainee in writing of any termination of sponsorship of an appraiser trainee, on a form approved by the Board and shall pay a fee set by the Board not later than the 10th day after the date of such termination.

(d) If an appraiser trainee's license has expired or been revoked by the Board or the appraiser trainee is no longer under the sponsorship of a sponsoring appraiser, the appraiser trainee may not perform the duties of an appraiser trainee until an application to sponsor the trainee has been filed together with payment of the appropriate fee and approved by the Board.

(e) Sponsoring appraisers are responsible to the public and to the Board for the conduct of the appraiser trainee under the Act. After notice and hearing, the Board may reprimand a sponsoring appraiser or may suspend or revoke a sponsoring appraiser's or supervisor's license based on conduct by the appraiser trainee constituting a violation of the Act or a rule of the Board.

(f) A sponsor may be added during the term of an appraiser trainee's license, by completing a form approved by the Board, paying a fee set by the Board, and ~~{beginning January 1, 2015,}~~ completing a Board approved Appraiser Trainee/Sponsor course.

(g) The sponsoring appraiser assumes all the duties, responsibilities, and obligations of a sponsor as specified in these rules and must diligently supervise the appraiser trainee. Diligent supervision includes, but is not limited to, the following:

(1) direct supervision and training as necessary;

(2) ongoing training and supervision as necessary after the sponsor determines that the appraiser trainee no longer requires direct supervision;

(3) communication with and accessibility to the appraiser trainee; and

(4) review and quality control of the appraiser trainee's work.

(h) A licensed appraiser trainee who signs an appraisal report must include his or her license number and the word "Trainee" as part of the appraiser trainee's signature in the appraisal report.

(i) Sponsoring appraisers may sponsor no more than three trainees at one time. Notification of sponsorship of an appraiser trainee must be provided in writing to the Board on a form approved by the Board with payment of the appropriate fee prior to the start of sponsorship.

(j) Sponsors must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees with access to any appraisals and work files completed under the sponsor.

(k) Sponsors must be in good standing and not subject to any disciplinary action within the last three years that affected the sponsor's eligibility to engage in appraisal practice. Disciplinary action taken against a sponsor within the last three years that did not affect the sponsor's eligibility to engage in appraisal practice must be disclosed in writing to the appraiser trainee prior to sponsorship.

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**Part VIII. Texas Appraiser Licensing and Certification Board**

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

(l) Beginning September 1, 2015, all sponsors and appraiser trainees must provide proof that they have completed a Board approved Appraiser Trainee/Sponsor course at the time they renew their license. The course must have been completed within four years of the expiration date of the current license.

(m)~~(4)~~ To obtain Board approval of an Appraiser Trainee/Sponsor course, a course provider must submit form ATS-0, Appraiser Trainee/Sponsor Course Approval, adopted herein by reference, and satisfy the Board that all required content set out in form ATS-0 is adequately covered. Approval of an Appraiser Trainee/Sponsor course shall expire two years from the date of Board approval. An approved Board Appraiser Trainee/Sponsor course may be delivered through classroom or distance education. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(n)~~(m)~~ Sponsors who complete the Appraiser Trainee/Sponsor course may receive ACE credit for the course.

(o)~~(n)~~ Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/Sponsor course.

This agency hereby certifies that the proposed amendments have 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 November , 2014.

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Kristen Worman  
General Counsel  
Texas Appraiser Licensing and Certification Board





## AGENDA ITEM 21

Discussion and possible action to close the review of 22 TAC Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act.

### SUMMARY

TALCB has completed the review of Chapter 159.

### STAFF RECOMMENDATION

Close the review of Chapter 159 as presented.

### RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to close the review of 22 TAC Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act.



**TITLE 22. EXAMINING BOARDS****PART VIII. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD****Chapter 159, Rules Relating to the Provisions of the  
Texas Appraisal Management Company Registration and Regulation Act**

In accordance with Texas Government Code §2001.039, the Texas Appraiser Licensing and Certification Board (TALCB) has concluded its review of its Texas Administrative Code, Title 22, Part 8, Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act. The notice of proposed rule review was published in the May 30, 2014 issue of the *Texas Register* (39 TexReg 4275).

TALCB has determined that the reasoned justification for adopting 22 TAC 159 continues to exist. Furthermore, the review process may indicate that a specific rule needs to be amended to further refine or better reflect current TALCB procedures and policy considerations, or that rules be combined or reduced for simplification and clarity. Specific amendments allow an Appraisal Management Company (AMC) to renew its license on inactive status and reduce the percentage of annual appraisal reviews an AMC must perform from five to two percent. Accordingly, TALCB adopts with amendments Texas Administrative Code, Title 22, Part 8, Chapter 159, under the Adopted Rules section of this issue of the *Texas Register*.

Two comments were received on the amendments as proposed. One commenter was a trade association and the other commenter was a law firm who represents AMCs. Both commenters support the reduction in the total percentage of appraisals that must be reviewed by an AMC on an annual basis. In addition, one commenter supports the clarification requiring a license holder to utilize an AMC's dispute resolution process before filing a complaint against an AMC with the TALCB.

This notice concludes TALCB's review of Texas Administrative Code, Title 22, Part 8, Chapter 159.





### **AGENDA ITEM 22**

Discussion and possible action on recommendations from the Education Committee regarding implementing a program to allow Board approval of education courses, instructors and providers.

### **AGENDA ITEM 23**

Discussion and possible action on recommendations from the Enforcement Committee regarding proposed revisions to the Complaint Intake Form.

### **SUMMARY**

The Enforcement Committee has reviewed the Complaint Intake Form and recommends that the Board adopt the proposed revisions to clarify the information requested when filing a complaint.

### **STAFF RECOMMENDATION**

Adopt the revisions as presented.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to revise the Complaint Intake Form as recommended by the Enforcement Committee.





Standards & Enforcement Services
P.O. Box 12188
Austin, TX 78711-2188
512-936-3621 Fax: 512-936-3966
www.talcb.texas.gov

NOTE: (1) 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. (2) TALCB does not resolve disputes solely about appraised value.

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 investigative 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. You will be informed of the final resolution of the complaint.

1. I WISH TO FILE A COMPLAINT AGAINST: (choose only one)

- Appraiser
Appraisal Management Company (AMC)
Unlicensed Activity Other

2. MY CONTACT INFORMATION:

Name:
Address:
City: State: Zip:
Email Address:
Telephone Number(s): Fax Number:

3. INFORMATION CONCERNING THE PERSON OR COMPANY AGAINST WHOM YOU ARE COMPLAINING ABOUT:

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 If yes, please attach a copy of the appraisal report.

Address of property appraised:
Date of Appraisal: Date you first became aware of the issues that are the subject of this complaint:
^ described in

5. IS THIS MATTER CURRENTLY IN CIVIL OR CRIMINAL LITIGATION?  Yes  No

If yes, please provide the following your attorney's information: below:

TYPE OF LITIGATION?  Civil  Criminal

Case Name and Number (e.g., Doe v. Smith, No. LIT-123) Attorney's Name: \_\_\_\_\_

Court Name (e.g., Travis County District Court) Attorney's Address: \_\_\_\_\_

Status of Litigation, if known (e.g., Discovery Deadline is mm/dd/yyyy; Trial Date is mm/dd/yyyy) Telephone Number(s): \_\_\_\_\_

NOTE: If your answer to this question is "NO," but you anticipate filing litigation or become aware of litigation involving this matter in the future, please notify the Board within 10 business days after you file or become aware of litigation involving this matter.

6. IS THIS MATTER CURRENTLY SUBJECT TO CRIMINAL PROCEEDINGS?  Yes  No  
IF YOU ANSWERED "YES" TO QUESTION 5, ARE YOU A PARTY IN THE LITIGATION?

If yes, please provide your prosecuting attorney's contact information: below.

Attorney's Name: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number(s): \_\_\_\_\_

7. ARE YOU FILING THIS COMPLAINT: (check all that apply)

To comply with mandatory reporting requirements of the Dodd-Frank Act?

Following a referral from the Appraisal Complaint National Hotline?

8. 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? (e.g., the AMC sought to influence or otherwise encourage a targeted value, the AMC altered a completed appraisal report by adding or removing information, etc.)

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 or why it remains unresolved.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

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**11. PLEASE EXPLAIN YOUR CONCERN ABOUT THE APPRAISAL REPORT OR APPRAISER/AMC CONDUCT:** If the appraised value is your primary concern, please explain specifically what concerns you about the appraised value or the development of value.

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**12. HAVE YOU PREVIOUSLY NOTIFIED THE PERSON OR COMPANY ABOUT YOUR COMPLAINT?**  YES  NO

*If yes, how did you notify them?*  WRITTEN (attach copies)  ORAL (detail each contact)

*What was the response?* \_\_\_\_\_

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**13. 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:** [Attach additional sheets as needed.](#)

Name: \_\_\_\_\_ Telephone Number(s): \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone Number(s): \_\_\_\_\_

Address: \_\_\_\_\_

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, [if determined to have merit](#), 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 [disclosure or 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.





### **AGENDA ITEM 24(a)**

Discussion and possible action on recommendations from the Executive Committee regarding consolidation of all policies related to Board orders

#### **SUMMARY**

The Executive Committee has reviewed those policies related to Board orders that have been previously adopted by the Board and recommends that the Board consolidate these policies into one document. There are no substantive revisions to the policies as consolidated.

#### **STAFF RECOMMENDATION**

Consolidate the policies related to Board orders as presented.

#### **RECOMMENDED MOTION**

MOVED, that the Board adopt the consolidated policy on Board orders as recommended by the Executive Committee.



**TALCB Board Members**

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**POLICY MEMORANDUM**

Date: November \_\_\_\_, 2014

RE: Board Order Guidelines

This memorandum confirms that the Texas Appraiser Licensing and Certification Board (Board) approved the implementation of the following guidelines for all Agreed and Final Orders of the Board.

- Experience logs will be due after completion of any ordered education;
- There will be clear and specific dates set out as deadlines 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;
- Use the term "cashier's check or money order" instead of "certified funds" in all Agreed or Final Orders; and
- Include the category of property that is the subject of the appraisal in the Order.

The Board revokes the previous memoranda entitled Agreed Order Guidelines, adopted November 9, 2012; Agreed Order Guidelines Part 2, adopted February 15, 2013; Final Order Guidelines, adopted May 17, 2013; and Board Orders, adopted May 9, 2014.

This policy is effective as of November \_\_\_\_, 2014 and remains in effect unless and until changed or revoked by the Board.

Approved by the Board and signed this \_\_\_\_ day of November, 2014.

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Jamie Wickliffe, Chair  
Texas Appraiser Licensing and Certification Board

**TALCB Board Members**

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**POLICY MEMORANDUM**

Date: November 9, 2012

RE: ~~Board Order~~ ~~Agreed Order~~ Guidelines

This memorandum ~~confirms~~ ~~is to confirm~~ that the Texas Appraiser Licensing and Certification Board (Board) approved the implementation of the following guidelines for all ~~Agreed and Final Orders of the Board~~. ~~Agreed Orders brought to the Board for execution:~~

- Experience logs will be due after completion of any ordered education;
- There will be clear and specific dates ~~deadlines~~ set out as deadlines 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. ~~If a respondent fails to comply with any of the terms with a stated due date in the order within the time allotted, the sanction shall be automatic suspension until respondent is in full compliance with the order and an administrative penalty of \$1000.00.~~

~~This policy is effective as of November 9, 2012 and remains in effect until and unless changed or revoked by the Board.~~

~~Approved by the Board and signed this 9th day of November, 2012.~~

**POLICY MEMORANDUM**

Date: ~~February 15, 2013~~

RE: ~~Agreed Order Guidelines Part 2~~

~~This memorandum is to confirm that the Texas Appraiser Licensing and Certification Board (Board) approved the implementation of the following guidelines for Agreed Orders with probated suspension or revocation provisions and for notices regarding failure to comply with an Agreed Order:~~

- ~~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 is placed on probated suspension or probated revocation, the Agreed Order will state that failure to comply with the terms and conditions of the Agreed 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 ~~Agreed Order~~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 ~~Agreed Order~~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 ~~Agreed Order~~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 February 15, 2013 and remains in effect until and unless changed or revoked by the Board.~~

~~Approved by the Board and signed this 15th day of February, 2013.~~

**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.~~

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~~• 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 21st day of May, 2013.~~

#### **BOARD MEMORANDUM**

Date: May 9, 2014

RE: Board Orders

This memorandum is to confirm that the Texas Appraiser Licensing and Certification Board (Board) approved the following changes to Board orders:

- Use the term~~Change "certified funds" to "~~"cashier's check or money order"~~" instead of "certified funds" in all Agreed or Final Orders;~~ and
- Include the category of property that is the subject of the appraisal in the ~~Board order~~Order.

The Board revokes the previous memoranda entitled Agreed Order Guidelines, adopted November 9, 2012; Agreed Order Guidelines Part 2, adopted February 15, 2013; Final Order Guidelines, adopted May 17, 2013; and Board Orders, adopted May 9, 2014.

This policy is effective as of ~~November~~May 9, 2014 and remains in effect unless and until changed or revoked by the Board.

Approved by the Board and signed this ~~\_\_\_~~9th day of ~~November~~May, 2014.

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Jamie Wickliffe, Chair  
Texas Appraiser Licensing and Certification Board



### **AGENDA ITEM 24(b)**

Discussion and possible action on recommendations from the Executive Committee regarding revisions to the policy on Work Related to Property Tax Protests

#### **SUMMARY**

The Executive Committee has reviewed the policy on Work Related to Property Tax Protests previously adopted by the Board and recommends updating this policy to include references both to property tax consultants and property tax professionals.

#### **STAFF RECOMMENDATION**

Update the policy as presented.

#### **RECOMMENDED MOTION**

MOVED, that the Board adopt the revisions to the policy on Work Related to Property Tax Protests as recommended by the Executive Committee.



**TALCB Board Members**

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**POLICY MEMORANDUM**

Date: November \_\_, 2014

**RE: Work performed by a person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act on behalf of another person for the purposes a property tax protest.**

This memorandum confirms that the Texas Appraiser Licensing and Certification Board (Board) revokes the policy memorandum previously adopted on November 9, 2012, and adopts this revised policy.

Pursuant to Texas Occupation Code §1103.002, the Board asserts jurisdiction over work performed after May 27, 2011 by a person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act (Act) on behalf of another person for the purposes of protesting an unequal appraisal under Subchapter C, Chapter 41, Tax Code, or Subchapter B, Chapter 42 of the Tax Code, if that work is performed solely under the authority granted to appraiser under the Act. Due to the Board's delay in fully asserting its jurisdiction, the Board will take the following actions:

- Work Performed after December 1, 2012:

For all work performed after December 1, 2012 by an appraiser who is also a certified property tax consultant or property tax professional, the Board will require the appraiser to provide the USPAP disclaimer required by 22 TAC §155.2 (USPAP disclaimer) anytime that appraiser performs work for the purpose of a property tax protest solely under his or her authority as a property tax consultant or property tax professional.

The Board will require any work performed and presented in connection with property tax consulting services signed by an appraiser operating solely under the authority of the Act must be USPAP compliant and must include the appraiser's license number. The Board will accept and investigate any complaints alleging violations of USPAP in connection with property tax consulting services performed after December 1, 2012 and signed by an appraiser operating solely under the authority of the Act.

- Work Performed Prior to May 27, 2011:

The Board will dismiss all complaints sent to the Board alleging violations of USPAP in connection with property tax consulting services performed prior to May 27, 2011 with a written notice explaining:

1. Any work performed and presented in connection with services provided by a property tax consultant or property tax professional and signed by an appraiser operating solely under the authority of the Act must be USPAP compliant; and
2. Any work performed and presented in connection with property tax consulting services signed by an appraiser operating solely under a current property tax consultant or property tax professional certification must include the USPAP Disclaimer.

- Work Performed after May 27, 2011, but prior to December 1, 2012:

The Board will dismiss all complaints sent to the Board alleging violation of USPAP in connection with services provided by a property tax consultant or property tax professional and performed after May 27, 2011, but prior to December 1, 2012, with a WARNING LETTER stating that all valuation related work done by an appraiser must comply with USPAP. Additionally, the WARNING LETTER will provide notice that:

1. Any work performed and presented in connection with services provided by a property tax consultant or property tax professional and signed by an appraiser operating solely under the authority of the Act must be USPAP compliant; and
2. Any work performed and presented in connection with services provided by a property tax consultant or property tax professional and signed by an appraiser operating solely under a current property tax consultant or property tax professional certification must include the USPAP Disclaimer.

- Agency Outreach:

1. Staff will widely publicize the recommended policy clarification and anticipated rule update, including a copy of the proposed rule with all U&E related correspondence; and
2. Staff will publish an FAQ on the Board's website to provide appraisers insight into the kind of USPAP lapses observed by the Board's investigators when reviewing complaints in connection with property tax consulting services performed by appraisers, and guidance for appraisers seeking to comply.

Approved by the Board and signed this \_\_\_\_ day of November, 2014.

---

Jamie Wickliffe, Chair  
Texas Appraiser Licensing and Certification Board

**TALCB Board Members**

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**POLICY MEMORANDUM**

Date: November 9, 2014

**RE: Work performed by a person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act on behalf of another person for the purposes a property tax protest.**

This memorandum ~~confirms to confirm~~ that the Texas Appraiser Licensing and Certification Board (Board) revokes the policy memorandum previously adopted on November 9, 2012, and adopts this revised policy.

Pursuant to Texas Occupation Code §1103.002, asserts jurisdiction over work performed after May 27, 2011 by a person licensed, certified, registered, or approved under the Texas Appraiser Licensing and Certification Act (~~Act~~appraiser) on behalf of another person for the purposes of protesting an unequal appraisal under Subchapter C, Chapter 41, Tax Code, or Subchapter B, Chapter 42 of the Tax Code, if that work is performed solely under the authority granted to an appraiser under the Act. Due to the Board's delay in fully asserting its jurisdiction, the Board will take the following actions:

- Work Performed after December 1, 2012:

For all work performed after December 1, 2012 by an appraiser who is also a certified property tax consultant or property tax professional, the Board will require the appraiser to provide the USPAP disclaimer required by 22 TAC §155.2 (USPAP disclaimer) anytime that appraiser performs work for the purposes a property tax protest solely under his or her authority as a property tax consultant or property tax professional.

The Board will require any work performed and presented in connection with property tax consulting services signed by an appraiser operating solely under the authority of the Act must be USPAP compliant and must include the appraiser's license number. The Board will accept and investigate any complaints alleging violations of USPAP in connection with property tax consulting services performed after December 1, 2012 and signed by an appraiser operating solely under the authority of the Act.

- Work Performed Prior to May 27, 2011:

The Board will dismiss all complaints sent to the Board alleging violations of USPAP in connection with property tax consulting services performed prior to May 27, 2011 with a written notice explaining:

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1. ~~Any~~ work performed and presented in connection with services provided by a property tax consultant or property tax professional and property tax consulting services signed by an appraiser operating solely under the authority of the Act must be USPAP compliant; and
2. Any work performed and presented in connection with property tax consulting services signed by an appraiser operating solely under a current property tax consultant or property tax professional certification must include the USPAP Disclaimer.

- Work Performed after May 27, 2011, but prior to December 1, 2012:

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The Board will dismiss all complaints sent to the Board alleging violation of USPAP in connection with services provided by a property tax consultant or property tax professionalizing services and performed after May 27, 2011, but prior to December 1, 2012, with a WARNING LETTER stating that all valuation related work done by an appraiser must comply with USPAP ~~requirements~~. Additionally, the WARNING LETTER will provide notice that:

1. ~~Any~~ work performed and presented in connection with services provided by a property tax consultanting services or property tax professional and signed by an appraiser operating solely under the authority of the Act must be USPAP compliant; and
2. ~~Any~~ work performed and presented in connection with services provided by a property tax consultanting services or property tax professional and signed by an appraiser operating solely under a current property tax consultant or property tax professional certification must include the USPAP Disclaimer.

- Agency Outreach:

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1. Staff will widely publicize the recommended policy clarification and anticipated rule update, including a copy of the proposed rule with all U&E related correspondence; ~~and~~
2. Staff will publish an FAQ on the Board's website to provide appraisers insight into the kind of USPAP lapses observed by the Board's investigators when reviewing complaints in connection with property tax consulting services performed by appraisers, and guidance for appraisers seeking to comply.

Approved by the Board and signed this 9<sup>th</sup> day of November, 20124.

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



### **AGENDA ITEM 24(c)**

Discussion and possible action on recommendations from the Executive Committee regarding recognition and appreciation for Board member service

#### **SUMMARY**

The Executive Committee recommends adopting a practice for recognizing outgoing Board members for their service as a Board member.

#### **STAFF RECOMMENDATION**

Adopt the practice for recognizing outgoing Board members for their service as Board members as recommended.

#### **RECOMMENDED MOTION**

MOVED, that the Board adopt the practice for recognizing outgoing Board members for their service as a Board member as presented by the Executive Committee.



## RECOGNITION AND APPRECIATION FOR BOARD SERVICE

The Board, with staff's assistance, will recognize and show appreciation to each outgoing Board Member for the Board Member's service to the agency and to the State of Texas. Subject to the Board's discretion, agency staff will work with the Board Chair or another designated Board Member to organize and execute the following activities.

### **1. Ensure outgoing board member's attendance at quarterly board meeting**

- a. If Governor/public announcement of Board Member's end of service is before the next Board meeting but prior to the end of service, the Board Member should be encouraged to attend.
- b. If Governor/public announcement of the Board Member's end of service is after the Board Member's last board meeting, the Board Chair or other Board Member should extend an invitation to the outgoing Board Member to attend the next quarterly meeting.

### **2. State of Texas Flag**

The Board Chair, designated Board Member, or staff should contact the exiting Board Member's Texas Representative's or Senator's office and request a Texas State Flag that has flown over the Capitol. Generally, the Representative's or Senator's office will let one pick a date that it was flown (such as the Board Member's birthday, first day appointed for the position, another special day for the person like San Jacinto Day). Also, the Representative's or Senator's office will probably want to know the name of the Agency and the Board Member's name. If someone is willing to ghost write a letter of recognition and application, including a couple/few of the Board Member's specific contributions to the agency/public, the Representative's or Senator's office may sign a letter to accompany the flag. Alternatively, generic language recognizing the Board Member's years of service can be inserted on the certificate that accompanies the flag. Some Representative's or Senator's offices prefer a written request for the flag when time permits.

The cost of the flag is very minimal, but should be shared and paid for by interested Board Members.

### **3. Other Key Invitees**

The Board Chair or designated Board Member may consider notifying and inviting, directly or through the outgoing Board Member, the following people to attend the meeting at which the outgoing Board member will be recognized:

- a. The Governor's Appointments Director and the Governor's Appointments Staff assigned to the agency
- b. The Governor's Budget & Policy Staff member assigned to the agency
- c. Board Member's Senator or Senator representative
- d. The outgoing Board Member(s)' family members

- e. Former Board Members who served with the outgoing Board Member
- f. Active key member(s) of the relevant professional associations

Staff shall maintain a list of potential invitees and timely remind the Board Chair or designated Board Member of such.

DRAFT



**AGENDA ITEM 24(d)**

Discussion and possible action on recommendations from the Executive Committee regarding appointment of a Board member as the contact person for proposed legislative changes

**SUMMARY**

The Executive Committee recommends that the Board appoint a Board member to serve as the contact person for proposed legislative changes.

**STAFF RECOMMENDATION**

Appoint a Board member as recommended.

**RECOMMENDED MOTION**

MOVED, that the Board appoints \_\_\_\_\_ as the contact person for proposed legislative changes.

**AGENDA ITEM 25**

Discussion and possible action regarding 2015 proposed legislative changes

**AGENDA ITEM 26**

Discussion and possible action regarding floor nominations to create a slate of officers



TALCB Board Members

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**BOARD MEMORANDUM**

**Date:** May 9, 2014

**RE:** Leadership Transition

This memorandum is to confirm that the Texas Appraiser Licensing and Certification Board (Board) approved the following practice regarding leadership transition:

At the last Board meeting of the calendar year, the Board will include the following items on the agenda:

Floor Nominations to create a slate of officers.

The Board will elect officers at the Board meeting held in February of the next calendar year.

Approved by the Board and signed this 9<sup>th</sup> day of May, 2014.

A large, stylized handwritten signature in black ink, appearing to read "J. Wickliffe".

Jamie Wickliffe, Chair  
Texas Appraiser Licensing and Certification Board





TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

### AGENDA ITEM 27

Discussion and possible action regarding proposal for conducting a survey of customary and reasonable fees



# The Texas Appraisers and Appraisal Management Company Survey



October 2012





**AGENDA ITEM 28**

Request for potential future meeting agenda items.

**AGENDA ITEM 29**

Discussion and possible action to schedule future meeting dates.

**AGENDA ITEM 30**

Adjourn.



# Texas Appraiser Licensing and Certification Board

## November 21, 2014

November 2014						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

**November**

4 Election Day  
 11 Veteran's Day  
 20/21 TALCB Meeting  
 27 Thanksgiving

December 2014						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

**December**

25 Christmas Holiday  
 31 New Year's Eve

January 2015						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

**January**

1 New Year's Day  
 19 Martin Luther King Day

February 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

**February**

16 Presidents' Day  
 20 TALCB Meeting

March 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

**March**

April 2015						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

**April**

3 Good Friday  
 5 Easter

May 2015						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

**May**

10 Mothers' Day  
 23 UT Commencement  
 25 Memorial Day

June 2015						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

**June**

21 Fathers' Day

July 2015						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

**July**

4 Independence Day

August 2015						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

**August**

September 2015						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

**September**

7 Labor Day

October 2015						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

**October**

12 Columbus Day