

**MEETING AGENDA****TALCB Enforcement Committee**

4th Floor, Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701

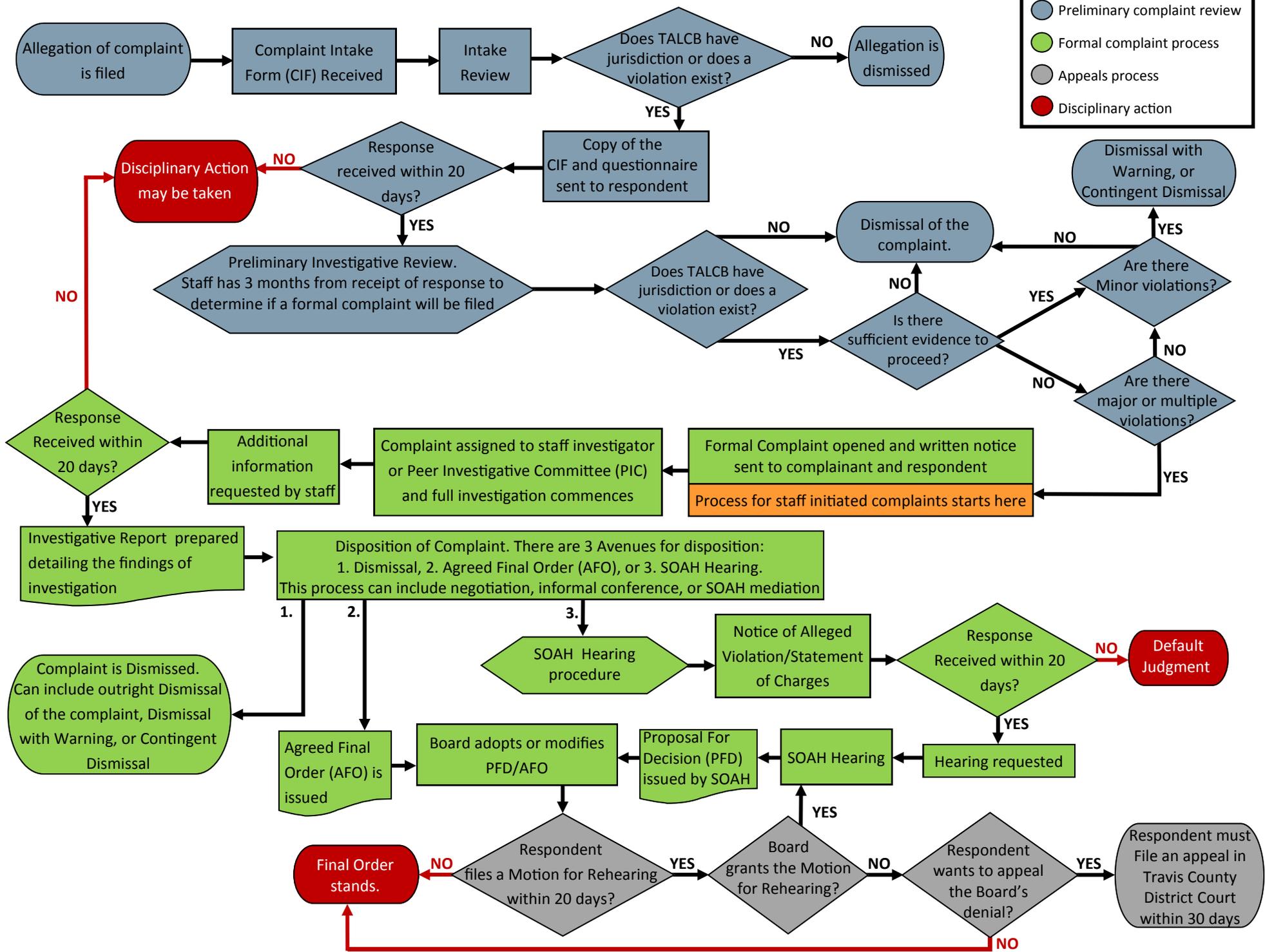
Wednesday, April 16, 2014, 10:00am

1. Call to order
2. Discussion and possible action regarding a flow chart of the complaint process for the website
3. Discussion and possible action regarding complaint processing including complaints on older files, multiple complaints, staff initiated complaints, informal conferences, contested cases, litigation negotiation process and committee policies
4. Discussion and possible action regarding qualifications for appointment as PIC member and/or Mentors and consideration of a referral process for possible candidates
5. Discussion and possible action regarding acceptable methods of payment of administrative penalties in Agreed Orders
6. Discussion and possible action regarding including the type of property being appraised in Agreed Orders
7. Discussion and possible action regarding developing a policy for informing SOAH of the federally mandated deadline for resolutions complaints before the Board
8. Discussion and possible action regarding participation by Board member in Investigative Conferences
9. Discussion and possible action regarding status update on AQB requirement for posting of disciplinary action on the Board's website
10. Discussion and possible action regarding the review of application logs and the enforcement compliance process.
11. Discussion and possible action regarding Reasonable and Customary Fees
12. Discussion to identify issues for future meetings
13. Discussion regarding future meetings dates
14. Adjourn

TALCB COMPLAINT PROCESS

LEGEND

- Preliminary complaint review
- Formal complaint process
- Appeals process
- Disciplinary action



TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ABBIE GAIL HAWKINS
TX-1338340-R

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DOCKETED COMPLAINT NO. 13-099

AGREED FINAL ORDER

On the 2nd day of December, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Abbie Gail Hawkins (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 Abbie Gail Hawkins is a Texas state certified residential real estate appraiser who holds certification number TX-1338340-R and was certified or licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 3930 Feagan Street, Houston, Texas (the "property") on or about February 2nd, 2008.
3. A staff-initiated complaint was filed with the Board based upon a referral from The Fraud Unit of the Texas Department of Insurance. 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. Thereafter the Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to the USPAP:

- a) 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 and disclose that scope of work in the report;
 - b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site and improvement(s) description for the property;
 - c) 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;
 - d) USPAP Standards 1-3(b) & 2-2(b)(viii) – Respondent failed to provide a summary of her rationale for her termination of the property's highest and best use;
 - e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to employ appropriate method or technique to determine the property's site value and did not provide her supporting rationale for this determination;
 - f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements;
 - g) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations;
 - 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; and,
 - k) 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.
7. 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 6 months, effective 5:00 p.m. (CST) on February 21st, 2014.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on February 21st, 2014, the suspension is to be fully probated for 6 months ending 5:00 p.m. (CST) on August 20th, 2014, subject to the following terms and conditions:

1. **EDUCATION.** On or before July 21st, 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 and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - A. A minimum 15 classroom hour course in USPAP; and,
 - B. A minimum 7 classroom hour course in the sales comparison approach;
 - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before May 21st, 2014, Respondent shall complete 20 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall

submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for 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 20 hours of mentorship shall include:

- A. 7 hours on the sales comparison approach;
 - B. 7 hours on the cost approach;
 - C. 3 hours on listing and sales history analysis; and,
 - D. 3 hours on report writing.
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 COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

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

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

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

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

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

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE 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).

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 ____ day of _____, 2013.

Abbie Gail Hawkins
ABBIE GAIL HAWKINS

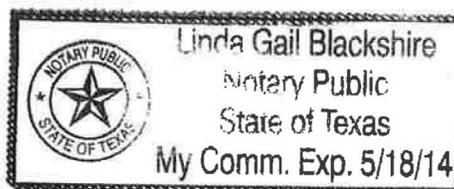
Ted Whitmer

TED WHITMER, ATTORNEY FOR
ABBIE GAIL HAWKINS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 2nd day of December, 2013, by ABBIE GAIL HAWKINS, to certify which, witness my hand and official seal.

Linda Gail Blackshire
Notary Public Signature

Linda Gail Blackshire
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 3RD day of DECEMBER, 2013.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

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.

Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

Chapter 1104 Occupations Code

REASONABLE & CUSTOMARY FEES

Sec. 1104.157. COMPENSATION OF APPRAISERS. (a) An appraisal management company shall:

(1) except in cases of breach of contract or substandard performance of services, pay an appraiser for the completion of an appraisal or valuation assignment not later than the 60th day after the date the appraiser provides the completed appraisal or valuation assignment to the company or its assignee; and

(2) compensate appraisers 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.

(b) An appraiser who is aggrieved under this section may file a complaint with the board against the appraisal management company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162.