

MATERIALS SUPPLEMENT

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Complaint# 13-251 (Chencheng Jack Wu, TX-1322574-G)

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

Chencheng Jack Wu
TX-1322574-G

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DOCKETED COMPLAINT NO.
13-251

AGREED FINAL ORDER

On the _____ day of _____, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Chencheng Jack Wu (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-1322574-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 127 Woodhaven Lane, Seabrook, Texas 77586 (the "Property"), on or about June 13, 2012.

3. Thereafter, the complaint, numbered 13-251, was filed with the Board by LenderVend Appraisal Zone. 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. 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.

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's workfile does not contain support for the one unit housing price and age range, site dimensions, site size and view

adjustments, age adjustments to the comparable sales, or any of the data presented in the Cost Approach

- 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); 1-1(b) – Respondent failed to support the opinions and conclusions in the “Neighborhood” section of the appraisal report;
 - d. 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; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
 - e. 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;
 - f. USPAP Standards 2-2(b)(v)(iii) – Respondent failed to explain and support the exclusion of the income approach;
 - g. 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
 - h. 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 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 Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making 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-1322574-G) is hereby suspended for twelve (12) months, with this suspension being fully probated under the following terms and conditions:

1. **TRAINEES.** Respondent shall not sponsor any trainees for one (1) year, beginning on May 9, 2014 and ending on May 9, 2015.
2. **MENTORSHIP.** On or before May 9, 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 May 9, 2015.
3. **PREVENTATIVE POLICIES AND PROCEDURES.** On or before May 9, 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 written, preventative policies and/or procedures to the Board, on or before May 9, 2015.
4. **ADMINISTRATIVE PENALTY.** On or before May 29, 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 Agreed Final Order (i.e. on or before May 29, 2014).

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; (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.

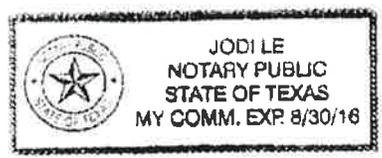
Signed this 8th day of May, 2014.

Chen Cheng Jack Wu
Chen Cheng Jack Wu

Don E. Walden
Don E. Walden, Attorney for
Chen Cheng Jack Wu

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 8 day of May, 2014, by Chen Cheng Jack Wu, to certify which, witness my hand and official seal

Jodi Le
Notary Public Signature



Jodi Le
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 8th day of May, 2014.

Kyle Wolfe
Kyle Wolfe, 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 Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

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

Supplemental Enforcement Committee Report May 9, 2014

Members: Laurie Fontana, Chair, Mark McAnally and Jesse Barba, Jr.

Since the February 2014 Board meeting, the Enforcement Committee held a second meeting via teleconference on April 29, 2014.

Committee Members in attendance: Laurie Fontana, Mark McAnally, and Jesse Barba, Jr.

Other Board Members in attendance: N/A

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Mark Mrnak, Director SES; Troy Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney.

Public in attendance: Bobby Crisp on behalf of ATA; Joe Woller on behalf of FACT.

The Committee received feedback regarding the complaint process flow charts and a status update on posting disciplinary history on the Board's website. Based on the feedback received, the Committee revised the flow charts and recommends approval and posting of the revised flow charts on the website. The Committee notes that the disciplinary history as currently posted is in compliance with state law and the requirements of the Appraisal Subcommittee. The Committee will continue to monitor this issue as changes to the website are made. The Committee recognizes that great strides have been made towards improving the complaint process to be more open and that Board members may contact staff to attend and observe an investigative conference at any time.

Future items for Committee work include:

- Issues regarding complaint processing for upgrades between license categories;
- Qualification criteria for Mentors;
- Review of application logs and the enforcement compliance process;
- Reasonable and customary fees; and
- Whether enforcement staff may discuss USPAP questions and give guidance or counsel to Texas appraisers on such questions.

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.

Report by Executive Committee

TALCB Board Members**SUPPLEMENTAL EXECUTIVE COMMITTEE REPORT, MAY 9, 2014**

Jamie S. Wickliffe
Chair

Since the February 21, 2014 Board meeting, the Executive Committee met again via teleconference on April 29, 2014.

Laurie C. Fontana
Vice Chair

Committee Members in attendance: Jamie Wickliffe, Chair; Laurie Fontana, Vice Chair; and Mark McAnally, Secretary.

Mark A. McAnally
Secretary

Jesse Barba, Jr.

Staff in attendance: Douglas Oldmixon, Commissioner; and Kristen Worman, General Counsel; Tony Slagle, Government Affairs.

Walker R. Beard

Public in attendance: None.

Clayton P. Black

Patrick M. Carlson

The Committee discussed several items including a timeline for reviewing existing Board policies and enhancing the current practice of honoring outgoing Board members. The Committee directed staff to return to the rotating seating arrangements for full Board members and agreed to take up the review of Board policies over the summer along with other items. The Committee will report back to the Board on these items at the August Board meeting.

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

The Committee also considered and recommends adoption of the revised policy for per diem and travel expenses, along with an election form for Board members to advise staff of the member's choices regarding payment and reimbursement.

The Committee did not schedule a future meeting.