

ENFORCEMENT PRIMER



AN OVERVIEW OF TALCB STANDARDS AND ENFORCEMENT SERVICES (SES)



ENFORCEMENT PRIMER

- The Team
- The Mission
- The Process – Examples from Cases

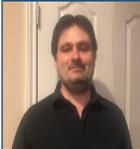


ENFORCEMENT PRIMER

THE TEAM



THE TEAM



Troy Beaulieu
Director, Standards and Enforcement



Jeff Strawmyer
Investigation Team Lead



Jim Jacobs
Commercial Investigator
AQB USPAP, SRA, AI-GRS



Sylvia Showacre
Commercial /Residential Investigator

Vacant
Commercial Investigator



Robin Forrester
Residential Investigator
AQB USPAP, SRA, AI-RRS



Marjorie Caldwell
Residential Investigator



Dane Sever
Residential Investigator
AQB USPAP, IFA, CRP, ASA



Emily Hein
Support Staff Team Lead



Kandice Valdez
Legal Assistant

Vacant
Legal Assistant

Vacant
Legal Secretary

High Risk Team (HRT)



Melissa Tran
Staff Attorney



Mark Lee
Staff Attorney

ENFORCEMENT PRIMER

THE MISSION

We protect consumers of appraisal services in Texas by ensuring qualified and ethical service providers



THE MISSION

- ENFORCE FEDERAL AND STATE LAWS AND STANDARDS
 - WITHIN DEFINED, LEGAL BOUNDARIES
 - WITH A REMEDIAL FOCUS



THE MISSION

- FEDERAL LAWS:

- STATUTES (FIRREA 12 USC § § 3331 et seq.)
- ASC POLICY STATEMENTS
- FEDERAL REGULATIONS

- STATE LAWS:

- STATUTES (Chpt. 1103 and 1104, Occ. Code)
- BOARD RULES (Chpt.153, 155, 157 and 159)



THE MISSION

COMMON MISCONCEPTIONS:

- ~~WE MAKE POLICY~~
- ~~WE OPERATE BEYOND POLICY BOUNDARIES~~
- ~~WE ENFORCE “BEST PRACTICES”~~
- ~~WE DISCIPLINE WHERE REASONABLE MINDS CAN DIFFER~~
- ~~WE DISCIPLINE FOR PROFESSIONAL JUDGMENT~~



THE MISSION

- 5 CASE TYPES:
 - Complaints
 - Experience audits
 - Requests for assistance
 - Background matters
 - Work product reviews



ENFORCEMENT PRIMER

THE PROCESS



ENFORCEMENT PRIMER

THE INTAKE PROCESS



THE INTAKE PROCESS

- Complaint is Initiated – signed, written form
 - Consumer, client, government agency, appraiser or industry professional
 - May be staff-initiated



THE INTAKE PROCESS

- Intake Briefing -- screened for jurisdiction, sufficient allegations, high risk and categorized
- Complaint notice sent
- Complaint response is received and processed



THE INTAKE PROCESS

JURISDICTION:

- Subject matter – licensee or unlicensed activity
- Credible allegation, which if true, would violate law
- No “value only” complaints; need something more



THE INTAKE PROCESS

COMPLAINT CATEGORIZATION:

- USPAP
- Ethics
- Laws/Rules
- Unlicensed
- No Jurisdiction
- AMC
- Covert



THE INTAKE PROCESS

HIGH RISK:

- Screened for priority HRT attention
- Specific types identified by Board rule



ENFORCEMENT PRIMER

THE INVESTIGATION PROCESS



THE INVESTIGATION PROCESS

- Case is assigned to investigator
- Triaged by investigator
 - High risk goes to HRT investigator for priority focus
- Case is investigated



THE INVESTIGATION PROCESS

- READ – the complaint, and response
- REVIEW – the entire report and work file for violations of USPAP and law (ASC Policy Statement 7)
- RESEARCH – as needed, the investigator will: (1) contact witnesses; (2) gather documents; (3) analyze market data



THE INVESTIGATION PROCESS

WRITTEN REPORT(S):

- Investigative summary
- Investigative report
- Dismissal summary
- Disposition factor analysis worksheet



THE INVESTIGATION PROCESS

INVESTIGATION IS:

- SENT TO QUALITY CONTROL TO ASSESS:
 - The report, analysis, evidentiary support, work file
- REFERRED TO LEGAL WITH:
 - Proposed findings
 - Recommended outcome



ENFORCEMENT PRIMER

THE LEGAL PROCESS



THE LEGAL PROCESS

When a complaint has been completely investigated, 3 different outcomes are possible:



*Dismissal of the complaint
(with or without warning)
Contingent Dismissal*



*Resolution of the complaint
case by agreed discipline*



*Resolution of the complaint
case through the disciplinary
hearing process*

THE LEGAL PROCESS

- Board penalty matrix – parameters for resolution
- Mitigating and aggravating factors
- First through fourth time discipline
- Three levels of severity
 - Minor deficiencies
 - Serious deficiencies
 - Serious with gross negligence / Intent



THE LEGAL PROCESS

DISMISSED CASES



THE LEGAL PROCESS

- DISMISSALS – 3 TYPES: (1) plain; (2) with warning; (3) contingent
 - QC and legal review
 - Dismissals brought weekly for vetting with team
 - Reviewed and signed by Commissioner
 - Closed and Respondent / Complainant notified



THE LEGAL PROCESS

AGREED RESOLUTION CASES



THE LEGAL PROCESS

- Attorney(s) review case with Director
- Order drafted / negotiated
- Signed by Commissioner and Chair
- Respondent and Complainant notified
- Posted to website and National Registry



THE LEGAL PROCESS

REMEDIAL TOOLS:

- Education
- Mentorship
- Policies and procedures
- Retake Examination

DISCIPLINARY TOOLS:

- Admin. penalty
- Reprimand
- Probation
- Suspension or revocation
- Payment of hearing costs

THE LEGAL PROCESS

CONTESTED CASES



THE LEGAL PROCESS

- Starts by filing Statement of Charges (“SOC”) and Notice of Hearing (“NOH”) with State Office of Admin. Hearings (“SOAH”)
- Assigned to an Administrative Law Judge (“ALJ”)



THE LEGAL PROCESS

- SOC -- the legal and factual allegations
- NOH – States the time and place of the hearing, the legal authority and incorporates the SOC
- ANSWER – Respondent replies to SOC
- DISCOVERY – Formal exchange of information about the case between the parties



THE LEGAL PROCESS

HEARING PROCESS

- Procedure / evidence rules apply
- Opening / closing statements are made
- Parties call witnesses / introduce evidence
- Record / transcript kept

HEARING OUTCOME

- ALJ makes:
 - Factual Findings
 - Legal Conclusions
 - Sanctions recommendation

THE LEGAL PROCESS

- ALJ's proposal for decision ("PFD") is sent to parties
- Parties may request modification of PFD (exceptions / replies)
- ALJ rules on them and final PFD goes to Board for action



THE LEGAL PROCESS

ADDITIONAL TOOLS:

- Temporary suspension if continuing public threat
- Civil lawsuit (attorney general) for injunction and penalties
- Referral for criminal prosecution for unlicensed activity and knowing, material misrepresentations



Q&A

QUESTIONS



RESOURCES

- TALCB complaint Process Handbook
- TALCB complaint Process YouTube Video
- Texas Attorney General's Administrative Law Handbook
- SOAH website
- ASC website



CONTACT THE TEAM

Troy Beaulieu

Director

Standards and Enforcement Services Division

Texas Appraiser Licensing and Certification Board

(512) 936-3623 (direct)

troy.beaulieu@talcb.texas.gov

