

## ***Legal Services Contract – TALCB Representation***

Complaint # (Use One Contract for each complaint) \_\_\_\_\_

Property Address \_\_\_\_\_

Ted Whitmer, Attorney MAI CCIM  
 4030 Highway 6 South, STE 325  
 College Station, TX 77845  
 Website: [www.appraiserdefense.com](http://www.appraiserdefense.com)

Office: (979) 690-9465  
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 Email: [ted@tedwhitmer.com](mailto:ted@tedwhitmer.com)  
 Email (Associate): [cindy@tedwhitmer.com](mailto:cindy@tedwhitmer.com)

This contract is between Ted Whitmer, Attorney and  
 Appraiser: \_\_\_\_\_

Appraiser: \_\_\_\_\_  
 (“appraiser(s)”). [Fill in all names here, please print]

Appraiser Information	Appraiser 1	Appraiser 2
Name		
Email		
Address - # & street		
City, State, Zip		
Phone – Office		
Phone – Cell		
Phone – Home		
Phone - Fax		
Property Information	Property 1	Property 2
Complaint Number		
Date of Complaint		
Complainant		
Date Complaint Received		
Address of Property		
City, State, Zip Code		
Briefly Describe Property		
List Price (If Applicable)		
Contract Price (If Applicable)		
Appraised Value		
Fee Received		
Date of Appraisal		
Date of Report		
Client		
Purpose of Appraisal		
All signatures on report		
All named in the certification		
Insurance Carrier		
Date Notified Insurance Carrier		

Please list any potential USPAP or Reg Violations (Read “Staying Out of Trouble” Article from [www.appraiserdefense.com](http://www.appraiserdefense.com) )

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The purpose of this contract is to define the services between Ted Whitmer, Attorney and appraiser(s). If you have any questions, please feel free to call. You are encouraged to consult your personal attorney or another attorney concerning these contractual provisions.

**Representation:** This contract is for representation by Ted Whitmer, Attorney with above appraisers to cover from date of this contract through THE INFORMAL CONFERENCE AND ANY FOLLOW-UP TO THE INFORMAL CONFERENCE OR UNTIL THERE IS AN AGREED ORDERED (AO) that is agreed to prior to an Informal Conference with the Texas Appraiser Licensing and Certification Board (TALCB). The representation through the Informal Conference may include some of the following steps. There is no guarantee that all the steps will be performed by Ted Whitmer.

- Contact by appraiser and discussions concerning complaint and answering complaint.
- Notify TALCB Enforcement Division of representation.
- Request for extension to answer complaint.
- Review of complaint, appraisal & file subject to complaint. Appraiser will prepare the answer to the complaint. However, please do not submit the answer before attorney review.
- Meeting with appraiser in College Station. This is your option.
- Possibly going to the subject & comparables.
- Review of answer to complaint & make suggestions before submittal to TALCB.
- Discussion of case with the TALCB.
- Setting up informal conference and answering any questions, if the file is not closed. The appraiser has a right to an informal conference.
- Discussion with TALCB about a possible Agreed Order or Informal Conference. Please see the adverse ramifications of an Agreed Order.
- Contact appraiser and discuss any TALCB contact. This may be by any combination or email or phone.
- Possible discussions with witnesses concerning appraisal.
- Meeting with the appraiser prior to or the day of the Informal Conference.
- Represent the appraiser at the informal conference. This is usually 1½ hours in duration.
- Discussions with appraiser(s) after the informal conference.
- Discussions & negotiations with TALCB after the informal conference.
- Dismissal of the case, settlement to an Agreed Order or set the case for a State Office of Administrative Hearing (SOAH).
- Discussions with appraiser concerning any offer of an Agreed Order or proceeding to a SOAH hearing.
- Signing and presenting any Agreed Order to the TALCB.
- I will offer suggestions for better practice.

This contract covers representation through an informal conference and negotiations after the informal conference as well as through execution of an Agreed Order or to a dismissal or warning letter. This contract does not cover State Office of Administrative Hearing (SOAH) representation. See the provision following.

**What is not covered:** This contract does not obligate Ted Whitmer to represent appraiser past the Informal Conference or Agreed Order if there is no Informal Conference. The representation to a

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State Office of Administrative Hearing (SOAH) is not covered by this contract. The next legal step after an informal conference is a formal trial in front of an administrative judge. The trial is generally one to two days and evidence is offered. The hearing is audio taped if one day and there is a court reporter present if two days. The hearing is governed by the same rules of procedure and evidence as a civil trial with some special SOAH rules.

The fee to continue to a formal SOAH hearing is at \$250 per hour. This does not include any expense of discovery or use of expert witness testimony nor any other expenses associated with this litigation. It is likely that one to six days will be required for preparation and discovery. An additional one to two days would be necessary for the hearing and probably one-half day for SOAH hearing should there still be an unfavorable result is to appeal to District Court.

The TALCB initiates the SOAH hearing by filing a complaint with the SOAH court. The complaint must be answered and discovery follows a civil trial and includes interrogatories, requests for disclosure, documents and expert witness reports. In addition, depositions may be taken. The SOAH courts look on the investigative officers with the TALCB as experts. Experts would have to be hired to counter the testimony of the enforcement officers. The likely experts include an expert in USPAP and a residential or commercial appraiser depending upon the property type. The experts would cost a minimum of \$2,500 each.

The cost of a SOAH hearing could exceed \$10,000 depending upon expert witnesses used and discovery. See paragraph following concerning civil or criminal cases concerning the appraiser or appraisal subject to the complaint. There is no guarantee of results from representation. Reviewing the transcript and entering any objections would be required. Therefore, the legal fees alone would be \$3,000 to \$8,000. Should there be no Agreed Order or dismissal of the case, a separate contract would be entered into for representation to the SOAH hearing.

The appraiser needs to understand that if you are not willing to go to SOAH you may have to settle for less than a favorable outcome through the informal conference. Going to SOAH will delay any order but could result in a greater discipline than what is offered by the TALCB under an Agreed Order.

On the other hand, if the trial takes place after three months or longer, the appraiser will not be on the ASC website which could affect approved lists and thus business. For some appraisers, there is a substantial loss of business once on the ASC website. Please see a subsequent provision for an explanation to consequences of an order.

**Please initial below to show you understand this contract is through an informal conference and does not include SOAH representation.**

*Initial* \_\_\_\_\_

*Initial* \_\_\_\_\_

**Advisory Services for Criminal or Civil case related to a complaint:** I will work with a civil or criminal attorney related to the appraisal that is subject to a complaint for \$250 per hour. I am not obligated to contribute to a civil or criminal case in connection with the appraiser or appraisal subject to a complaint with the TALCB. If you need a referral for potential civil or criminal charges, I will provide suggestions.

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**Multiple Signatures on the Report & Potential Conflicts:** The clients are the appraisers that sign the contract letter. I am not representing any other signatures on the report that are not included in this contract. *If there is more than one complaint over the same appraisal or another appraisal but involving two different clients I can represent both to the TALCB. However, if there is any conflict or problem between the two or more appraisers and as an attorney there is a potential conflict in the representation of the appraisers I will have to withdraw from representation of all appraisers.*

Initial \_\_\_\_\_

Initial \_\_\_\_\_

**Fee:** The fee schedule and time of payment is defined as follows. No representation begins until the contract is signed by appraiser(s) and Ted Whitmer and until the initial fee is paid. The fee structure is in stages. Alternatively, the appraiser(s) may opt out of flat fee representation and the hourly rate will be \$250 per hour.

**Stage one:** At initiation of contract \$1,500 is owed either by check or payment at [www.appraiserdefense.com](http://www.appraiserdefense.com) by Paypal if there is one appraiser and one residential property. An additional \$500 is owed for an additional appraiser under the complaint and \$250 for each additional property. *If there is more than one complaint, use an additional contract and call for a fee quote. For commercial properties, call for a fee quote.* The website was set up to facilitate the payment of the fee with a credit card or other method. This payment is due up front and covers representation through dismissal or an Agreed Order without an informal conference. If the case is dismissed the Stage Two payment is not owed. This fee is deemed earned after answering the complaint. If the representation begins after the appraiser answers a complaint, it is deemed earned prior to any informal conference or once an Agreed Order, warning letter or dismissal is given. No contractual representation begins until the contract is signed by both parties and this initial fee is paid.

**Stage two:** Prior to an informal conference another \$1,000 payment is due. The informal conference takes two hours of drive time each way, a one and one-half hour conference and meeting with the appraiser(s) before the conference. This fee is deemed earned after the informal conference is over. Representation will continue until a dismissal, a warning letter, an Agreed Order or intent of the TALCB of filing a SOAH case is given.

**Communications:** I will communicate with appraiser any important information concerning meeting times, offers from the TALCB or other important information within a reasonable time of receipt. Furthermore, appraiser should feel free to call or email me about the status of the complaint.

Communications between appraiser and Ted Whitmer are protected under the attorney/client privilege. I will keep conversations confidential. However, appraiser should know that any Agreed Order is published on the TALCB website and any agreement of violation of rule or USPAP is published on the ASC (Appraisal Subcommittee) website. Furthermore, any informal conference is subject to the Texas Open Meetings Act.

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**Results:** Ted Whitmer will diligently represent appraiser in this matter. Appraiser understands there is no guarantee of results because of this agreement or representation. An Agreed Order (AO) is posted on the ASC website as well as the TALCB website. Some clients have reported problems staying or getting on client’s approved appraiser lists because of the Agreed Order(s). Disciplines include (1) taking classes in-class that do not count towards continuing education credit. This results in lost income, expenses of travel and cost of the course or seminar(s). The appraiser will still have to take the required hours for continuing education because these do not count. (2) suspended probation may result in submittal of appraisal work logs and these properties may trigger another complaint. (3) loss of right to have any trainees, (4) a fine, and (5) any other corrective measures including writing company policies or a summary of what is learned in any course or seminar.

In addition, the TALCB enforcement staff will post lengthy write-ups of any perceived violations. This is public information.

**Signatures: I agree by signing below all provisions of this contract. I also acknowledge that should a conflict between the multiple appraisers arise, that Ted Whitmer will have to withdraw from the case.**

\_\_\_\_\_  
Ted Whitmer, Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Appraiser

\_\_\_\_\_  
Date

\_\_\_\_\_  
Appraiser

\_\_\_\_\_  
Date