

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

FAST CONNECTION USA, INC.
(Unregistered)
and
TOWHINDUL HUSSAIN

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COMPLAINT CASE No. 19-287

DEFAULT FINAL ORDER

On this 14 day of April, 2020, the Texas Appraiser Licensing and Certification Board (“TALCB” or “Board”), through the delegation of authority to the Commissioner, considered the above-noted matter.

After proper notice was given, Fast Connection USA, Inc. (“FCU”) and Towhindul Hussain (collectively, the “Respondents”) failed to respond and request a hearing in this matter.

The Texas Appraiser Licensing and Certification Board, through the delegation of authority to the Commissioner, after review and due consideration of the Notice of Violation and Penalty, incorporated by reference and attached hereto as **Exhibit A**, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent, FAST CONNECTION USA, INC., is an appraisal management company (“AMC”) that was unregistered in Texas during all times material to the above-noted complaint case.
2. On or about May 3, 2019, complaint #19-287 was filed with the Board by a real estate appraiser. The complaint alleged that the Respondent failed to pay the Complainant certain appraisal fees for an appraisal assignment within 60 calendar days of completion of the assignment.
3. On or about May 8, 2019, the Board, in accordance with TEX. GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the “APA”), and TEX. OCC. CODE § 1104 et. seq., the Texas Appraisal Management Company Registration and Regulation Act (the “Act”), notified Respondents of the nature of the accusations involved in the complaint. Respondents were afforded an opportunity to respond to the accusations in the complaint. The Board also requested Respondents to provide certain documentation.
4. Despite being sent the initial notice of complaint and a final notice of complaint on or about May 30, 2019, the Board never received a response to complaint #19-287.

5. Respondent FCU is a nationwide appraisal management company (“AMC”), and had at least 25 appraisers accepting assignments and completing appraisal reports on its behalf in the calendar years 2016 - 2018.
6. On 274 separate days during those calendar years, FCU contracted with an appraiser to perform an appraisal assignment and reimbursed appraisers for services performed on properties in the state of Texas. FCU is not currently registered in the state of Texas, and was not registered in Texas during any of the calendar years in question.
7. Respondent failed to pay appraisers for completion of appraisal assignments within 60 days where there was no breach of contract by the appraiser and performance by the appraiser was not substandard. The complainant submitted a report on January 8, 2019, and was not paid until May 19, 2019, a week after Respondents had been informed of the complaint to TALCB. FCU engaged in similar conduct at least 20 other times. In addition, on a further 15 occasions, Respondents did not make payment at all, even after receiving notice from TALCB staff that payment for completed reports was required within 60 calendar days.
8. Besides failing to respond to the complaint, Respondents did not answer requests for additional information from the Board.
9. FCU did not make a dispute resolution process available to the complainant, and produced no evidence that it has (or had) in place any dispute resolution process.
10. Respondent Towhindul Hussain is listed in official records of the State of Ohio as the President of FCU, and is the only officer identified.
11. On March 13, 2020, the Board staff sent the Respondents a Notice of Violation and Penalty (“Notice”) to the address Respondents provided to the Complainant and to the Ohio Secretary of State: Fast Connection USA, Inc. 707 Brookpark Rd Suite 202, Cleveland, Oh 44109.
12. The Notice recommended the imposition of a \$2,801,500.00 administrative penalty.
13. In the Notice, Respondents were informed that failure to respond, no later than the 20th day after the date of receiving the Notice, would result in the submission of an order imposing the above recommendation to the Board.
14. Respondents failed to request a hearing on this matter.

CONCLUSIONS OF LAW

1. The TALCB has jurisdiction over this matter pursuant to the Act.
2. The TALCB is authorized to send Notice pursuant to TEX. OCC. CODE § 1104.209.
3. Respondent Towhindul Hussain is a “controlling person” of FCU as defined by TEX. OCC. CODE § 1104.003(b)(6).
4. Respondent Towhindul Hussain is jointly and severally liable for any actions of FCU under TEX. OCC. CODE §§ 1104.202(a) and 1104.204(b)(2) & (b)(3).
5. Respondent engaged in unlicensed AMC activity as defined in TEX. OCC. CODE § 1104.003(b)(2), under subsections (D), (E)(i), and (E)(v).
6. Respondents violated 22 TEX. ADMIN. CODE §§ 159.201(a)(1), (a)(21) and 159.204(h) by failing to respond to the Notices and failing to provide requested documents.
7. Respondents violated TEX. OCC. CODE §1104.157(a)(1) by failing to compensate appraisers at all, or within 60 days of completion of an assignment, without any basis for the failure.
8. Respondents violated TEX. OCC. CODE § 1104.162 and 22 TEX. ADMIN. CODE §159.162 by failing to make a dispute resolution process available.
9. The Notice recommended the imposition of a \$2,801,500.00 administrative penalty.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board, through the delegation of authority to the Commissioner, that Fast Connection USA, Inc., and Hussain Towhindul are hereby assessed an administrative penalty of \$2,801,500.00, effective twenty-five days after the date Respondents are notified of this Final Order.

IT IS FURTHER ORDERED that Fast Connection USA, Inc., and Hussain Towhindul shall cease and desist from all appraisal management activities in the State of Texas, as defined in TEX. OCC. CODE § 1104.003(b)(2), unless and until it receives an acknowledgment of registration from the Board.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Texas Appraiser Licensing and Certification Board through the delegation of authority to the Commissioner and Signed this 14 day of April, 2020.

Chelsea Buchholtz

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Buchholtz
Date: 2020.04.14 11:15:43 -05'00'

Chelsea Buchholtz, Commissioner
Texas Appraiser Licensing and Certification Board

RIGHT TO REHEARING AND JUDICIAL REVIEW OF FINAL ORDER

You are entitled to apply for a rehearing of this Final Order. A rehearing may be obtained by filing an application for rehearing within 25 days of being notified either in person or by certified mail, return receipt requested, of the Final Order. The application for rehearing must state the specific grounds for rehearing and the relief sought. The application for rehearing will be denied if the Board does not act on it before the 55th day after the date the Commissioner is served with the application. In the absence of a timely application for rehearing, the Final Order will be final on the expiration of the period for filing an application for rehearing. A decision becomes final and appealable on the date of rendition of the order overruling application for rehearing, or on the date the application for rehearing is overruled by operation of law.

An application for rehearing is a prerequisite to judicial review. Judicial review may be obtained by filing in the Travis County, Texas, District Court, within 30 days after the order of the board is final and appealable.

**TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD,
Petitioner**

vs.

**FAST CONNECTION USA, INC.,
(Unlicensed)
and
TOWHINDUL HUSSAIN,
Respondents**

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DOCKETED COMPLAINT NO. 19-287

NOTICE OF VIOLATION AND PENALTY

In accordance with TEX. OCC. CODE § 1104.209, please take notice of the following:

I. PARTIES AND JURISDICTION

1. Petitioner is the Standards and Enforcement Services Division of the Texas Appraiser Licensing and Certification Board (“Board”).

2. Respondent Fast Connection USA, Inc., (“FCU”) is a for-profit corporation incorporated in Cuyahoga County, Ohio and whose address as registered with the Ohio Secretary of State, and used on its business correspondence is: 707 Brookpark Rd - Suite 202, Cleveland, OH 44109.

3. Respondent Towhindul Hussain is the President of FCU, is the only officer/partner of FCU listed with the Ohio Secretary of State, and is the individual officer of FCU that is responsible for FCU’s conduct in this case.

II. SUMMARY OF ALLEGED VIOLATIONS

4. On or about May 3, 2019, complaint #19-287 was filed with the Board by an appraiser. The complaint alleged that FCU failed to pay the complainant within 60

calendar days of submitting a completed appraisal report for a property located at 315 Lexington Street, Fort Worth, TX 76102, an assignment received from FCU.

5. On or about May 8, 2019, the Board, in accordance with Tex.Gov't Code Ann. Chpt. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondents of the nature of the accusations involved in the complaint. Respondents were afforded an opportunity to respond to the accusations in the complaint. The Board also requested Respondents to provide certain documentation.

6. Despite being sent the initial notice of complaint, and a final notice of complaint on or about May 30, 2019, the Board never received a response to the complaint #19-287, in violation of 22 TEX. ADMIN. CODE § 159.204(h).

7. Respondent FCU is a nationwide appraisal management company ("AMC"), and had at least 25 appraisers conducting business on its behalf in the calendar years 2016 - 2018.

8. Respondent engaged in unlicensed AMC activity as defined in TEX. OCC. CODE § 1104.003(b)(2), under subsections (D), (E)(i), and (E)(v). Specifically, on 274 separate days during those calendar years, FCU contracted with an appraiser to perform an appraisal assignment and reimbursed appraisers for services performed on properties in the state of Texas. FCU is not currently registered in the state of Texas, and was not registered in Texas during any of the calendar years in question.

9. Respondent violated TEX. OCC. CODE §1104.157(a)(1) by failing to pay appraisers for completion of appraisal assignments within 60 days where there was no breach of contract by the appraiser and performance by the appraiser was not

substandard. The complainant submitted the report on January 8, 2019, and was not paid until May 19, 2019, a week after Respondents had been informed of the complaint. During the investigation of the complaint, staff determined that Respondent FCU had engaged in similar conduct at least 20 other times. In addition, on a further 15 occasions, Respondents have not made payment at all, even after receiving notice from TALCB staff that payment for completed reports was required within 60 calendar days.

10. Besides failing to respond to the complaint, Respondents did not answer requests for additional information from the Board, as required by 22 TEX. ADMIN. CODE § 159.201(a)(21).

11. FCU did not make a dispute resolution process available to the complainant, and has produced no evidence that it has (or had) in place any dispute resolution process, in violation of TEX. OCC. CODE § 1104.162 and 22 TEX. ADMIN. CODE §159.162

12. Respondent Towhindul Hussain is listed in official records of the State of Ohio as the President of FCU, and is the only officer identified. Mr. Hussain is a controlling person of FCU as defined by TEX. OCC. CODE § 1104.003(b)(6). Under TEX. OCC. CODE §§ 1104.202(a) and 1104.204(b)(2) & (b)(3), he is jointly and severally liable for any actions of FCU.

III. RECOMMENDED SANCTION AND PENALTY

13. Respondents have no prior discipline with the Board. Respondents have engaged in misconduct that is classified in three distinct categories, as follows:

a. Unlicensed AMC Activity (22 TEX. ADMIN. CODE § 159.204(l)(3)(K)) – 274

violations, mandatory \$10,000 per violation - \$2,740,000;

b. First Time, level 2 (22 TEX. ADMIN. CODE § 159.204(l)(3)(B)) - minimum \$1,000 per violation:

i. 21 violations for failure to pay within 60 days - \$21,000;

ii. 1 violation for failure to respond to the complaint - \$1,000;

iii. 1 violation for failure to have a dispute resolution policy - \$1,000;

iv. 1 violation for failure to provide requested documents to the Board - \$1,000; and

c. First Time, level 3 (22 TEX. ADMIN. CODE § 159.204(l)(3)(C)) – 15 violations for failure to pay at all, after notice provided, minimum \$2,500 per violation - \$37,500.

14. Respondents should be assessed an administrative penalty of \$2,801,500 (two million, eight hundred one thousand, five hundred dollars).

IV. CEASE AND DESIST

15. Respondent shall cease and desist from all appraisal management activities in the State of Texas, as defined in TEX. OCC. CODE § 1104.003(b)(2), unless and until it receives an acknowledgment of registration from the Board.

V. RESPONDENTS' RIGHT TO A HEARING

16. Pursuant to TEX. OCC. CODE § 1104.209, Respondents have the right to a hearing to contest:

a. the alleged violations;

- b. the recommended sanctions and penalty; or
- c. both the alleged violations and recommended sanctions and penalty.

17. However, if Respondents fail to respond to this notice and do not affirmatively request in writing a hearing within the next 20 days, a final order, imposing the recommended sanctions and penalty outlined above will be automatically entered and imposed against Respondents by default.

Respectfully Submitted,

By:  _____

Mark R. Lee, Staff Attorney
Standards and Enforcement Services Division
Texas Appraiser Licensing and Certification Board
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Austin, TX 78711-2188
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Email: mark.lee@talcb.texas.gov
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that on March 13, 2020, in accordance with TEX. OCC. CODE § 1103.5011, a true and correct copy of the foregoing Notice of Violation and Penalty was mailed certified mail, return receipt requested, emailed, faxed and/or hand delivered to:

Fast Connection USA, Inc. c/o Towhindul Hussain 707 Brookpark Rd - Suite 202, Cleveland, OH 44109	<u>VIA CERTIFIED MAIL: 9214890194038309324212</u> <u>VIA FIRST CLASS MAIL</u>
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A handwritten signature in blue ink, appearing to read "Mark R. Lee". The signature is fluid and cursive, with the first name "Mark" and last name "Lee" clearly distinguishable.

Mark R. Lee