

**BEFORE THE REAL ESTATE APPRAISER BOARD
STATE OF OKLAHOMA**

In the Matter of Tom D. Eike,)
)
) Complaint #15-026 and 15-054
)
)
)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent TOM D. EIKE, thru his attorney of record Rachel Lawrence Mor, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-700, et seq. and Oklahoma Administrative Code 600:10-1-1, et seq. All sections of this order are incorporated together.

FINDINGS OF FACT FOR COMPLAINT 15-026

1. Respondent is a Certified General Appraiser (“CGA”) who resides in Woodward County, Oklahoma. In March of 2015, Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 197877 East County Road 41, Woodward, Oklahoma. The report was transmitted to the client, on March 13, 2015. The appraisal’s intended use was for a refinance transaction.

2. The subject is a single family residence with a recently constructed utility building. The building is 4000 square feet and appears to be of commercial quality. The report relies exclusively on a “paired sales” analysis of commercial

properties which generate revenue, in support of the positive \$89,400 to \$121,400 adjustments for subject's 4000 square foot utility building. The appraiser's analysis indicates that rural residential use is the subject's Highest and Best Use. Respondent used positive across the board adjustments between 41% and 76% that are applied to comparable properties. The main reason for the excessive adjustment percentage is the line item adjustment for the subject's 4000 square foot utility building. The appraiser responded that it is not an over-improvement, stating "Building was not considered to be an over improvement or super adequacy because it is not considered to be atypical for the market area. Search perimeters were expanded and no sales found".

FINDINGS OF FACT FOR COMPLAINT 15-026

3. In February of 2014, Respondent was hired by PHH Mortgage Co. for an appraisal at property located at 46425 S. County Road 200, Woodward, Oklahoma. A second case was filed by the Board on this appraisal, Case # 15-054.

CONCLUSIONS OF LAW

4. The Respondent violated 59 O.S. § 858-726 C) The Scope of Work Rules and Standard 2, Standards 2-1 and 2-2 of the Uniform Standards of Professional Appraisal Practice.

5. The Respondent has violated 59 O.S. § 858-723 (C) (6) and (7) in communicating an appraisal as provided in the Oklahoma Certified Real Estate Appraisers Act.

CONSENT AGREEMENT

The Respondent, by affixing his signature hereto, acknowledges:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document, and
2. That Respondent possesses the following rights among others:
 - a. the right to a formal fact finding hearing before a disciplinary panel of the Board;
 - b. the right to a reasonable notice of said hearing;
 - c. the right to be represented by counsel;
 - d. the right to compel the testimony of witnesses;
 - e. the right to cross-examine witnesses against him; and
 - f. the right to obtain judicial review of the final decision of the Board.
3. The Respondent stipulates to the facts as set forth above and specifically waives his right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court.
4. The Respondent consents to the entry of this Order affecting his professional practice of real estate appraising in the State of Oklahoma.
5. The Respondent agrees and consents that this Consent Order shall not be used by him for purposes of defending any other action initiated by the Board regardless of the date of the appraisal.

6. All other original allegations contained in the notice of in this matter are dismissed.
7. In order to fully settle and compromise both matters, the Respondent agrees to the following order.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is ordered and that:

1. The Respondent shall complete the following courses, which can be taken in person or on-line:
 - a. 60I Online Advanced Residential Applications and Case Studies:
1701 (15 hours)
 - b. 979 Online Reviewing Residential Appraisals and FMF 2000: 1612
(7 hours)
2. The Respondent has ninety days from the final approval and filing of this consent order to complete the courses. The 7 hour Online Reviewing Residential Appraisals and FMF Course, may count for the Respondent's continuing education requirements.
3. Upon timely completion of the courses ordered by the Board and timely proof of completion within the ninety-day period provided, the Board shall dismiss Case #15-054 with prejudice.

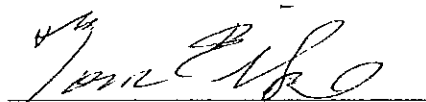
DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

FUTURE VIOLATIONS

In the event the Respondent fails to comply with any of the terms and conditions of this Consent Order, Respondent will be ordered to show cause for his failure to comply which could result in additional penalties.

RESPONDENT:



TOM D. EIKE

11-4-2016

DATE



RACHEL LAWRENCE MOR, OBA # 11400

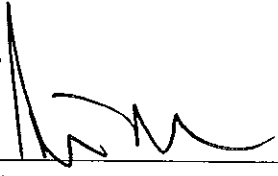
Counsel for Tom D. Eike

11/4/2016

DATE

CERTIFICATE OF BOARD PROSECUTING ATTORNEY

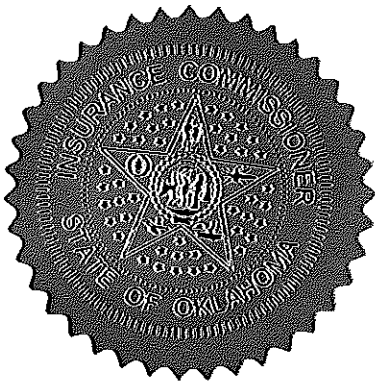
I believe this Consent Order to be in the best interests of the Oklahoma Real Estate Appraiser Board, the State of Oklahoma and the Respondent with regard to the violations alleged in the formal Complaint.

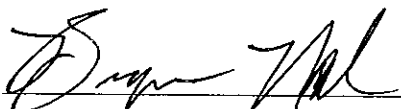

STEPHEN MCCALED, OBA #15649
Board Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

12-7-16
DATE

IT IS SO ORDERED on this 7th day of December, 2016.


ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board



By: 
BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 7th day of February, 2017 a true and correct copy of the above and foregoing instrument was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Rachel Lawrence Mor
3037 N.W. 63rd Street, Suite 205
Oklahoma City, Oklahoma 73116

7016 3010 0000 2706 6452

and that copies were forwarded by first class mail to the following:

Mark C. Thompson, Hearing Panel Officer
11708 Bevonshire Road
Oklahoma City, OK 73096

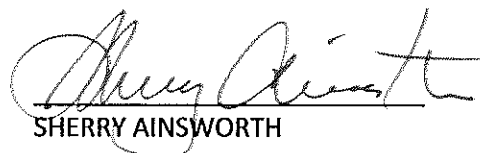
John M. Travers, Hearing Panel Officer
9028 S Norwood Ave
Tulsa, OK 74137

Craig Wittmer, Hearing Panel Officer
PO Box 604
Ponca City, OK 74602

Kelly R. Bridges, Alternate Hearing Panel Officer
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313 N.E. 21st Street
Oklahoma City, OK 73105

Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 N. Lincoln Boulevard
Oklahoma City, OK 73105


SHERRY AINSWORTH



RECEIVED
OKLAHOMA INSURANCE DEPT.

FEB 09 2017

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-53A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 NW 56th St., Ste. 100
Oklahoma City, OK 73112

February 8, 2017

Dear Director McEntire:

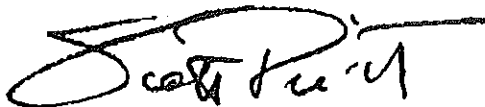
This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Real Estate Appraiser Board intends to take under a consent agreement with licensee 10542CGA. The Board received two complaints which showed errors in methodology and inaccurate and misleading data. The Board found the first appraisal to be below professional standards with fundamental mistakes, flawed methodology, incorrect descriptions and unsupported values. In the second complaint, the licensee's methodology was unrecognizable, and the final value was not well-developed or supported with adequate comparable selections and adjustments. The proposed action is to require the licensee to complete a fifteen-hour online course on advanced residential applications and case studies and a seven-hour online course on reviewing residential appraisals. The license has ninety days from the final approval of the consent order to complete the courses.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2016, §§ 858-700–858-732, authorizes the Oklahoma Real Estate Appraiser Board to discipline licensees who violate the Act's standards for real estate appraisals, 59 O.S.Supp.2016, § 858-723(C)(6). The Act requires adherence to "the current edition of" the Uniform Standards of Professional Appraisal Practice ("USPAP"), 59 O.S.2011, § 858-726, which is the 2014-2015 edition.

USPAP's Standards Rule 1-1(a) requires that an appraiser "be aware of, understand, and correctly employ . . . recognized methods and techniques that are necessary to produce a credible appraisal." USPAP 16. Further, Standards Rule 1-4 requires an appraiser to "collect, verify, and analyze all information necessary for credible assignment results." USPAP 19. USPAP's Standards Rule 2-1 requires an appraiser to ensure appraisal reports are not misleading, contain sufficient information, and disclose all assumptions used in the report's preparation. USPAP 21.

Here, the Board may reasonably believe the licensee failed to collect adequate information and accurately analyze that information, resulting in a deficient appraisal report. The Board may reasonably believe that additional education requirements are necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State of Oklahoma's policy that real estate appraisals meet standards of completeness and accuracy.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a long horizontal line extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA