

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

In the Matter of AARON B. KELCY)
) Complaint #17-008
Respondent.)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent AARON KELCY thru his attorney of record Richard Morissette, 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

1. In September of 2016, Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 9308 Arman Drive, Yukon, Oklahoma (the “subject”). Respondent listed Bay Equity, LLC as the lender/client. The report was transmitted to the client, with an effective date of September 28, 2016. The appraisal’s intended use was for a purchase transaction.

2. Respondent committed in this transaction, and with other communications, actions constituting a lack of the highest standards of professional ethics.

3. Respondent sent a text at 3:15 a.m. on February 26, 2017, to a salesperson for TimberCraft. TimberCraft built the subject property. Included in the text was wording that was derogatory in nature as a whole.

4. Respondent has also sent communications regarding this matter to OREAB staff which show a lack of the highest standards of professional ethics.

CONCLUSIONS OF LAW

1. That Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858- 726, in that Respondent violated the Uniform Standards of Professional Appraisal Practice Ethics Rule, which requires that “[a]n appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.” This includes the Conduct section of the Ethics Rule.

2. That Respondent has violated 59 O.S. § 858-723(C)(5): "An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person."

3. That Respondent has violated 59 O.S. § 858-723(C)(13), in that Respondent violated 59 O.S. § 858-732(A)(1): "An appraiser must perform ethically and competently and not engage in conduct that is unlawful, unethical or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased real property valuation must perform assignments with impartiality, objectivity and independence and without

accommodation of personal interests."

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.
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 in this matter are dismissed.

7. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting after receipt of the executed Order from Respondent, and notice for the Order's placement on that agenda is accepted.¹

8. All parties to this Consent Order have been represented by counsel.

9. This Consent Order may be executed in one or more counterparts, but all of such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other party, facsimile and visual digital reproductions of original signatures shall be effective the same as if they were the originals.

10. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

11. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

¹ Currently the 2018 Board meetings are scheduled for 9:30 a.m. for: February 7, March 7, April 4, May 2, June 6, July 11, August 1, September 5, October 3, November 7, December 5.

12. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

13. The Parties represent and warrant to one another that each party has authority to enter into this binding Consent Order. The OREAB represents and warrants that the undersigned have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent(s). It is hereby agreed between the parties that this Consent Order shall be presented to the Board with recommendation for approval of the Board at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against him/her at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made from his willingness to have entered this agreement. It is

agreed that neither the presentation of the Consent Order nor the Board's consideration of the Consent Order will be deemed to have unfairly or illegally prejudiced the Board or its individual members and therefore will not be grounds for precluding the Board or any individual Board member from further participation in proceedings related to the matters set forth in the Consent Order.

- **THIS CONSENT ORDER IS NOT EFFECTIVE UNTIL ITS APPROVAL BY A MAJORITY OF THE BOARD AND THE APPROVED ORDER RECEIVES A SUBSEQUENT ENDORSEMENT ("SIGNATURE") BY A REPRESENTATIVE OF THE BOARD. THE EXECUTED ORDER IS THEN SUBJECT TO A WRITTEN ANALYSIS BY THE OKLAHOMA ATTORNEY GENERAL'S OFFICE.**

ORDER

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

1. Respondent agrees that he will successfully complete, pass the test, and provide proof of completion and passing of the test to the Board's office for the following corrective education courses within 60 days from the date the Consent Order is approved by the Oklahoma Attorney General. The courses to be taken are:

- a) The fifteen (15) hour National USPAP course (no credit will be given for these continuing education hours); and
- b) The four (4) hour Business Practices and Ethics course (760) (credit will be given for these continuing education hours).

2. Respondent further agrees that he will seek a Alcohol and Drug Substance Abuse Course (ADSAC) assessment and complete the recommendation he receives from the ADSAC assessment. The assessment will be completed no later than February 28, 2018. The completion of the recommendations from the ADSAC will be completed no later than April 10, 2018.

3. Failure to comply the preceding paragraphs in a timely manner will result in an instant suspension of Respondent's license. For good cause, an extension may be granted by the Board. An application for an Extension of Time should be filed in sufficient time to be placed on a Board meeting agenda in advance of the deadline.

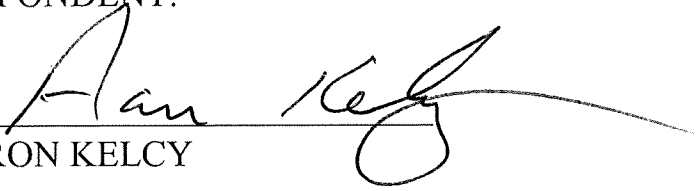
4. An administrative fine in the amount of Two Thousand Dollars (\$2,000), to be paid in accordance with 59 O.S. §858-723(B)(2).

DISCLOSURE

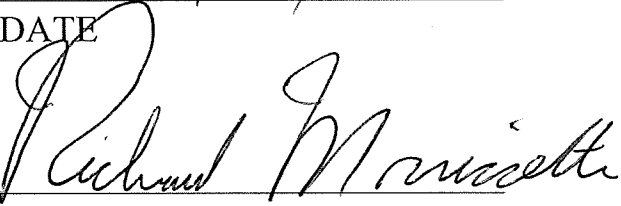
Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying

upon request.

RESPONDENT:


AARON KELCY

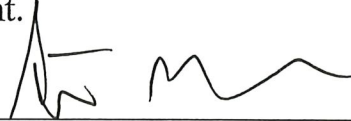
2/7/18
DATE


RICHARD MORRISSETTE
Counsel for Respondent

2-7-2018
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

2-7-18

DATE


IT IS SO ORDERED on this 7th day of February, 2018.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board



**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 a true and correct copy of the above and foregoing instrument was mailed postage prepaid by certified mail with return receipt requested on this 7th day of March, 2018 to:

Richard Morrisette
7204 South Pennsylvania Avenue
Oklahoma City, OK 73159
Richard@Morrissettelaw.com
Attorney for Respondent


9214 8902 0982 7500 0059 66

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

Aaron B. Kelcy
2312 NW 54th St
Oklahoma City, OK 73112

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
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.

MAR 07 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-78A

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

March 5, 2018

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Appraiser Board intends to take pursuant to an agreed consent order with respect to licensee 12574CRA. A grievance was filed against the licensee for acting unprofessionally toward a builder and the Board itself. The Board proposes to impose a \$2,000 fine, require the licensee to complete the 15-hour Uniform Standards of Professional Appraisal Practice ("USPAP") course and a 4-hour ethics course, and to complete an alcohol and substance abuse course prior to February 28, 2018.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board "[t]o censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in [the Act,]" *see* 59 O.S.Supp.2017, § 858-706(7), and to require payment of fines and costs and the completion of educational programs. *Id.* § 858-723(A)(7)-(9). The Board may discipline licensees who "[v]iolat[e] any of the provisions in the code of ethics set forth in [the] Act." *Id.* § 858-723(C)(13). The Act requires adherence to the USPAP, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed action is 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's policy to uphold standards of competency and professionalism among real estate appraisers.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL