

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

In the Matter of COREY NICHOLAS and)
 RICHARD BRADEN) Complaint #16-016
Respondent.)

**CONSENT ORDER FOR RESPONDENTS COREY NICHOLAS AND RICHARD
BRADEN**

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondents COREY NICHOLAS and RICHARD BRADEN, both represented by Trace Morgan, 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.

AGREED FINDINGS OF FACT

1. This is a complaint on two appraisals completed on the same property by two separate appraisers. On February 22, 2016, Respondent Corey Nicholas completed an appraisal assignment for an appraisal (the “appraisal”) for a property located at 2209 East 9th Street, Cushing, Oklahoma (the “subject”). Respondent listed First United Bank and Trust Company as the lender/client (“lender” or “client”). The report was transmitted to the client, with an effective date of February 21, 2016. The appraisal’s assignment type was listed as “Other – construction per plans and specs.”

2. On April 5, 2016, Respondent Richard Braden completed an appraisal assignment for an appraisal (the “appraisal”) for a property located at 2209 East 9th Street, Cushing, Oklahoma (the “subject”). Respondent listed First United Bank and Trust Company as the lender/client (“lender” or “client”). The report was transmitted to the client, with an effective

date of April 1, 2016. The appraisal's assignment type was listed as "Other – construction per plans and specs."

3. Both reports resulted in an opinion of market value of \$280,000.

4. It appears that the two reports are identical, down to the exact wording, including typos and misinformation, photographs, and adjustments, and an incorrect intended user.

5. The SLA, Respondent Corey Nicholas, filed a written response to the OREAB and provided a copy of his work file as requested. He stated he originally prepared the appraisal under the assumption that it was an in-house construction loan. He later was contacted by his client regarding the status of his license and when they learned he was ineligible to perform federally related transactions, they advised him that they would require a second appraisal. The lender stated that they were having a hard time finding a certified residential appraiser and the SLA referred him to the CRA knowing him to be a quality appraiser and familiar with the market. A week later he was copied on an email that was an appraisal order from the lender to the CRA. The SLA offered to allow the CRA to see a copy of his appraisal. He sent his file over in order to assist him in the quick turnaround. A week or so later, the CRA submitted his appraisal report to the lender.

6. The CRA did not file a written response, but had two telephone conversations with the Board's director which were memorialized in memos to the file. He also subsequently provided a copy of his work file. In his first telephone call, he stated that "he was in a hurry and busy and was trying to meet the client's deadline. He knew the SLA did the previous appraisal and he trusts his work." In the second telephone call the CRA stated that "The SLA prepared the appraisal for him and sent it over. He updated it and made his changes."

7. The two appraisal reports are identical in every way down to the dollar amounts; the work files do not contain written authorization to use another person's appraisal report.

8. The CRA attempted to backfill a work file as all of the dates were removed from the public record and MLS sheets.

AGREED VIOLATIONS OF LAW

1. That Respondents have violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858-726, in that Respondents violated:

A) The Ethics, Conduct, and Confidentiality Sections of the Uniform Standards of Professional Appraisal Practice Ethics Rule;

B) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;

C) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;

D) Standard 1, Standards Rules 1-1, 1-2, 1-4, and 1-6; Standard 2, Standards Rules 2-1, and 2-2 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rules; and

E) That Respondent Braden violated the Ethics Rule of the Uniform Standards of Professional Appraisal Practice, in that he violated its Record Keeping Section.

2. That Respondents have violated 59 O.S. § 858-723(C)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."

3. That Respondents have violated 59 O.S. § 858-723(C)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

4. That Respondents have violated 59 O.S. § 858-723(C)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

5. 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."

6. That Respondents have 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."

7. That Respondents have violated 59 O.S. § 858-723(C)(6): "Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act."

CONSENT AGREEMENT

The Respondents, by affixing their signatures hereto, acknowledge:

1. That Respondents have been advised to seek the advice of counsel prior to signing this document,

2. That Respondents 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 Respondents stipulate to the facts as set forth above and specifically waives their right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court.

4. The Respondents consent to the entry of this Order affecting their professional practices of real estate appraising in the State of Oklahoma.

5. The Respondents agree and consent that this Consent Order shall not be used by either of them 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.

ORDER

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

1. shall complete the following courses, which can be taken in person or on-line, said education shall be completed within thirty (30) days after the approval of this Order: Course #760: Business Practices and Ethics: 1812; and
2. A \$3,000 Administrative fine.

Respondent shall provide the OREAB office proof of completion of the courses within thirty (30) days of this Order's effective date (which will begin upon receipt of the Order's approval from the Oklahoma Attorney General's Office).

It is also ordered that Respondent COREY NICHOLAS:

1. Shall complete the following courses, which can be taken in person or on-line, said education shall be completed within thirty (30) days after the approval of this Order:
Course #760: Business Practices and Ethics: 1812; and
2. A \$1,000 Administrative Fine.

Respondent shall provide the OREAB office proof of completion of the courses within thirty (30) days of this Order's effective date (which will begin upon receipt of the Order's approval from the Oklahoma Attorney General's Office).

In the event either or both of the Respondents fail to comply with any of the terms and conditions of this Consent Order, the non-complying Respondent(s) will be suspended for their failure to comply which could result in additional penalties. Said suspension shall continue until Respondent provides proof to the Board of completing the requirements in this Order.

DISCLOSURE

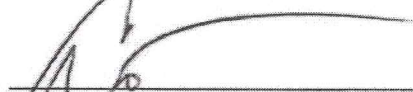
Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24I-A.1 — 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

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:




COREY NICHOLAS

2/21/17
DATE



RICHARD BRADEN

2/21/17
DATE




TRACE MORGAN, OBA# 14618
Attorney for Respondents

2/21/17
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

2-28-17

DATE

IT IS SO ORDERED on this 15th day of March, 2017.



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 on the 29th day of March, 2017 a true and correct copy of the above and foregoing Consent Order for Respondents Corey Nicholas and Richard Braden was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Trace Morgan

Morgan Law Office

711 S. Husband Street

Stillwater, Oklahoma 74074

Attorney for Respondents

7016 3010 0000 2706 6735

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

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 27 2017

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-209A

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

March 27, 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 pursuant a consent agreement with respect to licensee 11328SLA, a non-AQB compliant State Licensed Appraiser ("SLA"), and 12786CRA, a Certified Residential Appraiser ("CRA"), (collectively the "Licensees"). The proposed action for the CRA is to impose a \$3,000 fine and require completion of a course in business ethics. The proposed action for the SLA is to impose a \$1,000 fine and require completion of a course in business ethics.

The Board received a complaint from a mortgage lender who received two identical appraisals prepared as part of the same finance transaction. After receiving an appraisal from the SLA, the mortgage lender wanted a second appraisal prepared by the CRA because the SLA was ineligible to perform federally-related transactions. Upon receipt of the second appraisal from the CRA, the mortgage lender found it was identical to the appraisal prepared by the SLA down to the exact wording, including typos and misinformation, photographs, adjustments and an incorrect intended user. Upon investigation and review of all available documentation, the two appraisal reports were found to be identical in every way down to the dollar amounts. Further, the CRA attempted to backfill a work file as all of the dates have been removed from the public record and MLS sheets.

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 based on "[a]n 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," "[v]iolation of any of the standards for the development or communication of real estate appraisals," "[f]ailure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal," "[n]egligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal," "[w]illfully disregarding or violating any of the provisions of the...Act or the regulations of the Board for the administration and enforcement of the provisions of the...Act," or "[v]iolati[on] of any of the provisions in the code of ethics set forth in [the Act]," 59 O.S.Supp.2016, § 858-723(C)(5)-(9), (13). 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 2016-2017 edition.

The USPAP contains professional requirements pertaining to ethics, record keeping, competency, and scope of work. See ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards); RECORDKEEPING RULE, USPAP-11 (requiring preparation of a work file prior to the issuance of a report); COMPETENCY RULE, USPAP-12 (requiring appraisers to be competent to perform assignment or acquire necessary competency); and SCOPE OF WORK RULE, USPAP-14 (requiring appraiser to perform scope of work necessary to develop credible results and disclose such information in the appraisal report). USPAP also contains standards such as Standard 1, which requires the appraiser to “complete research and analyses necessary to produce a credible appraisal.” USPAP-17. Components of Standard 1 clarify that this means the appraiser must employ proper valuation techniques, identify relevant characteristics of the property, analyze relevant factors, and reconcile data and approaches used to arrive at a value conclusion. USPAP-17, 18, 20, 21. Further, Standard 2 requires that appraisal reports communicate all analyses, opinions, and conclusions clearly and accurately and to summarize the information sufficient to identify the real estate involved in the appraisal. USPAP-22.

The action seeks to enforce requirements of professionalism embodied in the Act and in the USPAP. The Board may reasonably believe that the disciplinary 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 of Oklahoma’s policy to uphold standards of competency and professionalism among real estate appraisers.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL