

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

In the Matter of MICHAEL HARDWICK, )           Complaint #16-024  
  )  
Respondent.                                )

**CONSENT ORDER**

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent MICHAEL HARDWICK, 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 April of 2016, Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 2407 South Berry Road, Norman, Oklahoma (the “subject”). The client was Monica Q. Gries (“client”), who owned the property with her then husband, Peter Gries. Respondent completed and transmitted the appraisal with an effective date of April 22, 2016, and was for a divorce proceeding.

2. Respondent committed a series of errors in the report which led to a misleading and non-credible report.

3. The appraisal was prepared in conformance with the Uniform Standards of Appraisal Practice (USPAP) as part of a divorce proceeding, which prohibits advocating for a client.

4. The appraisal submitted by the Respondent to the Board in response to the grievance was modified from the version which was received by the Board from the

Grievant.

5. The subject appraisal valued the property for \$264,000 higher than an appraisal completed during the year prior and is double the County Assessor's current appraised value, without explanation.

6. The subject is a 46-year-old home which is reflected as 9 years old in the report's sales comparison grid. There is no discussion of any rebuild or additions to the subject, or any explanation for the reported age in the sales comparison grid. The description of the subject as 9 years old is incorrect and misleading.

7. The comparable properties chosen were not truly comparable. Respondent reported that he was forced to select comparables from "other areas in the City of Norman...between three and eleven miles away from the Subject" because there were insufficient sales "similar in GLA." His comparables one, two, and three, are all located in Norman's Fountain View edition; a prestigious neighborhood in North West Norman. Comparables with similar gross living area were available closer to the subject and could have been used.

8. Respondent reported that his "comps have similar external influences" to the subject property. "All sales sites were considered similar in value regarding site values based on paired site size value data." The subject's site value is \$40,000, yet his first three comparable sales had site sales of \$110,000, \$145,000, and \$138,500 lot sales with no adjustments.

9. Comparable 1 on the Grievant's copy has been moved to comparable 6 in the version submitted by the Respondent. The Respondent also changed a pending sale to a closed sale. The Respondent is required to submit his appraisal as submitted to his

client. There were no other versions in the Respondent's work file.

10. The adjustments on the report are not supported and/or explained, and do not make sense. This includes comparables one and two which both sold for \$180 a foot and Respondent made adjustments for gross living area at \$160 a foot.

### 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:

A) The Ethics Rule, the Conduct Section, and the Management 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) The Record Keeping Rule of the Uniform Standards of Professional Appraisal Practice;

E) Standard 1, Standards Rules 1-1, 1-2, 1-3, 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.

2. That Respondent has 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 Respondent has 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 Respondent has 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 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.”

7. That Respondent has 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 Respondent, by affixing his signature hereto, acknowledges:

- That Respondent has been advised to seek the advice of counsel prior to signing this document;
- That Respondent possesses the following rights among others:
  - the right to a formal fact finding hearing before a disciplinary panel of the Board;
  - the right to a reasonable notice of said hearing;
  - the right to be represented by counsel;
  - the right to compel the testimony of witnesses;
  - the right to cross-examine witnesses against him; and
  - the right to obtain judicial review of the final decision of the Board;
- 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;
- The Respondent consents to the entry of this Order affecting his professional practice of real estate appraising in the State of Oklahoma;
- 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.

**ORDER**

**WHEREFORE**, on the basis of the foregoing Findings of Fact and

Conclusions of Law, it is ordered and that:

• The Respondent shall complete the following corrective education courses, which can be taken in person or on-line:

- A) 15 Hour National USPAP Class; and
- B) 30 Hour Residential Sales Comparison and Income Approach.

2. The Respondent has sixty days from the final approval and filing of this consent order to complete the courses. If the corrective education courses are not completed timely, Respondent's license will be suspended until proof of completion is filed with the Board's office.

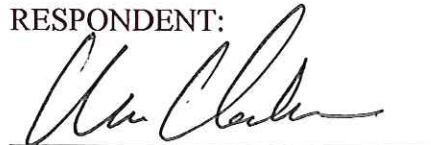
**DISCLOSURE**

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:



\_\_\_\_\_  
MICHAEL HARDWICK

4/22/17

\_\_\_\_\_  
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 56<sup>th</sup> Street, Suite 100  
Oklahoma City, Oklahoma 73112

DATE

IT IS SO ORDERED on this 3<sup>rd</sup> day of May, 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 21<sup>st</sup> Street  
Oklahoma City, Oklahoma 73105



**CERTIFICATE OF MAILING**

I, Sherry Ainsworth, hereby certify that on the 19<sup>th</sup> day of May, 2017 a true and correct copy of the above and foregoing Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

**Michael Hardwick**  
513 S Carter Avenue  
Norman, OK 73071-5403

**7016 0340 0000 7986 7271**

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

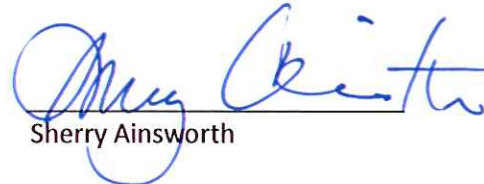
**John M. Travers, Hearing Panel Officer**  
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**Mark C. Thompson, Hearing Panel Officer**  
11708 Bevonshire Road  
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Sherry Ainsworth





RECEIVED  
OKLAHOMA INSURANCE DEPT.

MAY 17 2017

OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION  
2017-379A

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

May 17, 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 to a consent agreement with licensee 11590CRA. The proposed action is to require the licensee to complete education courses within sixty days to include the 15-hour National Uniform Standards of Professional Appraisal Practice ("USPAP") course and a 30-hour course in residential sales comparisons and income approach. The licensee produced an appraisal report in a divorce proceeding in conformance with USPAP. However, the homeowner who filed the complaint alleged that the licensee selected comparables from superior neighborhoods in order to benefit the licensee's client because of a professional association with the client's attorney. In addition to several problems with the comparables and adjustments, the licensee failed to identify a business relationship with the client's attorney in the appraisal report, which resulted in a misleading and non-credible report.

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, which is the 2016-2017 edition. 59 O.S.2011, § 858-726.

The USPAP contains professional requirements pertaining to ethics, competency, and scope of work. *See* ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards);

RECORDKEEPING RULE, USPAP-11 (requiring preparation of a workfile 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, avoid making unsupported assumptions when developing a market value opinion, analyze relevant factors, and reconcile data and approaches used to arrive at a value conclusion. USPAP-17, 18, 19, 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