

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

In the Matter of SERVICE 1ST VALUATION)
& SETTLEMENT SERVICES,)
Respondent.)

Complaint# A17-014

**BOARD'S DECISION AS TO
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATION OF HEARING OFFICER**

ON THE 2ND day of May, 2018 the above-numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board" or "OREAB") following a Disciplinary Hearing that was held on February 26, 2018. The Hearing Examiner was Assistant Attorney General Kimberly Heaton Wilson, duly appointed by the Oklahoma Real Estate Appraiser Board (the "Board" or "OREAB") to hear this matter. The case was prosecuted by the Board's Prosecutor, Stephen L. McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording.

The Respondent, Service 1st Valuation & Settlement Services ("Respondent" or "Service 1st"), failed to appear and was not represented by an attorney at the hearing, even though the record reflects that Respondent was served on January 22, 2018 with a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Examiner ("Notice"), including notice of the date, time, and location of the hearing, by first class U.S. certified mail with return receipt requested, pursuant to the Oklahoma Certified Real Estate Appraiser Act, the rule-making authority granted to the Board through the Oklahoma Appraisal Management Company Regulation Act, 59 § 858-828 and O.S. 59 O.S. § 858-829, and the Administrative Procedures Act, 75 O.S. §§250-323, OAC 600:35-1-5 and OAC 600:35-1-7. Service of the Notice was evidenced by the return receipt information and U.S. Postal Service verification of delivery of the Notice, reflecting the signature of Respondent's representative and verifying delivery of the Notice to Respondent on January 22, 2018.

In response to a question from the Hearing Examiner, the Board's Prosecutor indicated that he had received a call from Respondent's counsel, who stated that he was from Pennsylvania, that Respondent is unlicensed now, and that Respondent's counsel was not going to appear for the hearing. In light of the absence of Respondent and/or an attorney appearing on Respondent's behalf, the Board's Hearing Examiner asked the Board's Prosecutor how he wished to proceed. The Board's Prosecutor informed the Hearing Examiner that he wanted to proceed with the formal hearing against Respondent and present the case in chief against the Respondent, for a determination of the matter in the absence of Respondent pursuant to the Board's Rules in the Oklahoma Administrative Code ("OAC") 600:35-1-14. Based upon Respondent's failure to appear at the hearing (default), the Hearing Examiner granted the Board Prosecutor's request to proceed with the formal hearing against Respondent and to present the case in chief against Respondent.

The Board Prosecutor, Mr. McCaleb, presented his opening statement on behalf of the Board. Mr. McCaleb stated that in October, 2011, Respondent filed an application for licensure to provide services and was subsequently licensed in 2011 as an Appraisal Management Company as defined in 59 O.S. §§858-801. Mr. McCaleb stated that on December 14, 2015, Respondent submitted a Renewal Application, Exhibit B, for the period of December 31, 2015 to December 31, 2016, and in the Renewal Application, Respondent answered "No" to Question #3, which asked whether, within the last 12 months, the company's registration had been revoked, suspended for cause, disciplined, or surrendered in lieu of a disciplinary proceeding in any State. Mr. McCaleb stated that Mark Oliver was the controlling person for the Respondent, and that Mark Oliver submitted false information on the Renewal Application by not reporting on the application that Respondent was sanctioned in Mississippi in 2015 and signed an Agreed Order relating to the Mississippi proceeding on February 25, 2015.

PRELIMINARY MATTERS

The Board's Prosecutor moved the admission of nine (9) exhibits for the Board (Exhibits A, B, C, D, E, F, G, H, and I) to which there was no objection by Respondent, and all nine of such Board exhibits were admitted into evidence. The following exhibits were admitted:

- Exhibit A: Oklahoma Real Estate Appraiser Board, Application For Registration-Appraisal Management Company.
- Exhibit B: Oklahoma Real Estate Appraiser Board, Oklahoma Appraisal Management Company Renewal Application, stamped received on December 14, 2015.
- Exhibit C: Agreed Order of the Mississippi Real Estate Appraiser Licensing and Certification Board.
- Exhibit D: Email dated March 15, 2017, from Eric Schoen to Gloria Bondi, relating to AMC License for Service 1st Valuation and Settlement Services.
- Exhibit E: Oklahoma Real Estate Appraiser Board, Oklahoma Appraisal Management Company Renewal Application, stamped received on November 14, 2017.
- Exhibit F: Email dated January 31, 2018, from Al Will to Christine McEntire, relating to Service 1st controlling persons.
- Exhibit G: United States Postal Service, January 31, 2018, verification of delivery information on Certified Mail, relating to the service of the Notice of Disciplinary Proceedings and Appointment of Hearing Examiner.
- Exhibit H: Oklahoma Real Estate Appraiser Board, Appraisal Management Company Grievance Form.
- Exhibit I: Letter to Christine McEntire from Albert V. Will, Require Holdings.

Respondent (who was absent) did not submit any documents for admission as evidence in this matter. Further, no party in these proceedings requested that a court reporter record this matter and no party to these proceedings submitted any proposed finding of fact or proposed conclusions of law to the Hearing Examiner for its consideration.

WITNESSES AND EVIDENCE PRESENTED

The Board's Prosecutor presented one (1) witness, Christine McEntire, the Board's Director, in support of the case against the Respondent. Upon being duly sworn, Ms. McEntire testified that she is the Director of the Board that she has worked for the Board since 2007, that she has been the Board's Director since 2011, and that in her capacity as the Director she is involved with licensing of

Appraisal Management Companies. Ms. McEntire testified that there are approximately 120 Appraisal Management Companies. She testified that she is familiar with Service 1st and their licensure through the Oklahoma Real Estate Appraisal Board. Ms. McEntire identified all of the exhibits that were admitted into evidence, Exhibits A – I. Ms. McEntire identified Exhibit A as Respondent's Application for Registration as an Appraisal Management Company, and testified that the company is out of Pittsburg, Pennsylvania. Ms. McEntire testified that Mark Oliver is the designated officer for the company, the Controlling Person as defined in 59 O.S. § 858-803(10). Ms. McEntire testified that Service 1st was licensed as an Appraisal Management Company.

Ms. McEntire testified regarding Exhibit B, which she identified as an Annual Renewal Application form, indicating that Exhibit B reflects that this Renewal Application was received by the Real Estate Appraiser Board on December 14, 2015. She testified regarding the contents of the Renewal Application, including the Respondent's answer to Question 3 on the Renewal Application. Ms. McEntire testified that in its response to Question 3 on the Renewal Application, Service 1st stated that it had never been disciplined, sanctioned, or its license revoked by any other State licensing entity. Ms. McEntire stated that Service 1st license was renewed based upon the answers on the Renewal Application, including the answer to Question 3.

Ms. McEntire testified that Exhibit C was an Agreed Order of the Mississippi Real Estate Appraiser Licensing and Certification Board ("Mississippi Board") dated March 5, 2015, in which the Mississippi Board took disciplinary action against Service 1st Valuation and Settlement Services, Inc., including the assessment of a civil penalty for conducting business as an appraisal management company without registration as required by Mississippi law and in violation of the Mississippi Board's Notice to Cease and Desist. Ms. McEntire testified that the OREAB was not aware of the Mississippi Board's Agreed Order at the time Respondent's license was renewed on approximately December 7, 2015 (reflected in payment of licensing fee on the Renewal Application).

Ms. McEntire testified that she received the Agreed Order on April 17, 2017, from the Mississippi Board. She stated that the OREAB filed a grievance against Respondent on April 18, 2017, which is reflected in Exhibit H, and relates to the Agreed Order entered by the Mississippi Board. She stated that the OREAB's grievance was adopted as a formal complaint against Respondent for violations committed by Respondent in Mississippi, the Mississippi Board's Agreed Order, and Respondent's failure to report to the OREAB the violations of Mississippi regulations, the Agreed Order, and the disciplinary action in Mississippi.

Ms. McEntire testified regarding Exhibit E, the Renewal Application received from Service 1st on November 14, 2017, and stated the OREAB denied the application for renewal based upon their failure to answer the questions on the Renewal Application and the note on page 2 of the form indicating Service 1st was sold on May 1, 2017. Ms. McEntire testified that the note further indicates the name of the new company is "Service 1st LLC". She further stated that the licensure of the new company is being handled separately from Respondent's licensure. At the end of her testimony, Ms. McEntire clarified that Exhibit I represents her communications with Respondent regarding the new company.

Neither Respondent nor Respondent's attorney were present at the hearing, having notified the Board through the attorney that neither would be present for the hearing. Consequently, Respondent presented no witnesses or defense.

A Request for Oral Argument was not filed with the Board and the Respondent did not appear to address the Board.

JURISDICTION

1. The OREAB has the duty to carry out the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth in Title 59 of the Oklahoma Statutes, §§858-701, *et seq.*, the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. §§ 858-801, *et seq.*, and to

establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act, and through the rule-making authority granted to the Board through the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. § 858-828 and § 858-829.

2. The OREAB has promulgated rules and regulations to implement the provisions of the Oklahoma Certified Real Estate Appraisers Act and the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. § 858-828 and § 858-829, in regard to disciplinary proceedings as set forth at the Oklahoma Administrative Code §§600:35-1-1 through 600:35-1-20, including administrative hearings.

3. The Oklahoma Real Estate Appraisal Board has appointed the Hearing Officer, Kim Heaton (Kim Heaton Wilson), Assistant Attorney General, as Hearing Examiner in this case pursuant to OAC 600:35-1-10.

4. The Respondent, SERVICE 1st VALUATION & SETTLEMENT SERVICES (or Service 1st) is an Appraisal Management Company in the State of Oklahoma, holding registration number #60107AMC and was first licensed with the Oklahoma Real Estate Appraiser Board in December, 2011.

FINDINGS OF FACT

The Board hereby adopts in full the Findings of Fact of the Hearing Examiner, as follows:

1. Respondent was served on January 22, 2018 with a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Examiner (“Notice”), including notice of the date, time, and location of the hearing, by first class U.S. certified mail with return receipt requested, pursuant to the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. §858-724, through the rule-making authority granted to the Board through the Oklahoma Appraisal Management Company

Regulation Act, 59 O.S. §858-828 and §858-829, the Administrative Procedures Act, 75 O.S. §§250-323, OAC 600:35-1-5 and OAC 600:35-1-7.

2. Service of the Notice on Respondent is confirmed in the return receipt information and Postal Service verification of delivery of the Notice, which was admitted into evidence as Exhibit G, reflecting the signature of Respondent's representative and verifying delivery of the Notice to Respondent on January 22, 2018.

3. Respondent failed to appear at the hearing after proper notice was provided, and the Board Prosecutor proceeded with the hearing in Respondent's absence.

4. The Respondent, SERVICE 1st VALUATION & SETTLEMENT SERVICES is an Appraisal Management Company in the State of Oklahoma, holding registration number #60107AMC and was first licensed with the Oklahoma Real Estate Appraiser Board in December, 2011.

5. The Service 1st annual anniversary date for registration renewal is set for December 31 of each subsequent year. Mark B. Oliver ("Oliver") is the designated controlling person and president and CEO of Service 1st.

6. On December 14, 2015, Service 1st submitted its Renewal Application for the period of December 31, 2015 to December 31, 2016. Question #3 on the Renewal Application asked the following question: "In the last twelve months, has your company's registration been revoked, suspended for cause, subjected to discipline or surrendered in lieu of disciplinary proceedings in any state in which you are registered? If so, please provide the date of the final Order, identify in what state this occurred, and briefly describe the imposed penalty." Oliver responded "No" to Question #3.

7. On April 17, 2017, OREAB became aware of an Agreed Order, Cause #AMC 11-406, in the Matter of Service 1st Valuation and Settlement Services, Inc., before the Mississippi Real

Estate Appraiser Licensing and Certification Board. According to the Agreed Order, Service 1st was fined \$13,000 for performing unregistered appraisal management company services in the state of Mississippi. After receiving a cease and desist order from the Mississippi Board, Service 1st continued to conduct business in Mississippi despite receiving a notification of the need to register and/or cease and desist. Oliver signed the Agreed Order on February 25, 2015, and it was signed by the Director of the Mississippi Board on March 5, 2015. The dates that the parties, including Oliver on behalf of Respondent, signed the Mississippi Agreed Order fall within the 12 month period preceding the December 14, 2015 Renewal Application filed by Oliver on behalf of Service 1st.

8. By not identifying the sanctions Service 1st received from the Mississippi Board, Service 1st attempted to circumvent Board regulation in order to timely renew its registration as an approved Appraisal Management Company in Oklahoma.

9. Service 1st, through the designated controlling person, Oliver, falsely represented on its December 14, 2015 Renewal Application that the company had not been disciplined or sanctioned in any other state within the preceding twelve months by responding "No" to Question #3 on the Renewal Application, representing on the Renewal Application that Service 1st had not, within the last twelve months, had its registration as an Appraisal Management Company revoked, suspended for cause, subjected to discipline or surrendered in lieu of disciplinary proceedings in any state.

CONCLUSIONS OF LAW

The Board hereby adopts in full the Conclusions of Law of the Hearing Examiner, as follows:

1. Notice was provided to Respondent of the charges and the date, time and location of the hearing in this matter in accordance with the provisions of 59 O.S. § 858-828 and § 858-829, OAC 600:35-1-5 and OAC 600:35-1-7.

2. Pursuant to OAC 600:35-1-14, due to Respondent's failure to appear, the Board Prosecutor proceeded with the formal hearing and presented the case in chief against the Respondent, for a determination of the matter in the absence of Respondent pursuant to the Board's Rules in the OAC 600: 35-1-14.

3. The conduct and information described in the findings of fact set forth herein constitute a violation of 59 O.S. § 858-819(B)(10): Submitting or attempting to submit false, misleading, or inaccurate information in any application for registration or renewal.

4. Pursuant to 59 O.S. § 858-827(1), Respondent's registration as an Appraisal Management Company may be censured, conditionally or unconditionally suspended or revoked by the Board, or an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) per violation may be imposed by the Board, if the appraisal management company has committed any act in violation of the Oklahoma Appraisal Management Company Regulation Act.

FINAL ORDER

WHEREFORE, having adopted in full the Findings of Fact and Conclusions of Law entered by the Hearing Examiner, the Board hereby adopts in full the recommendation of the Hearing Examiner and hereby makes its Final Order as follows:

Based upon the Respondent's violation of 59 O.S. § 858-819(B)(10), the Respondent's registration as an Appraisal Management Company should be and hereby is REVOKED, without the right to reapply and that such revocation begins immediately from the date that this Final Order is entered in this matter plus a period of thirty (30) days after the Respondent is notified of the final agency order, either personally or by certified mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT IT HAS 30 DAYS FROM THE DATE THE RESPONDENT IS FIRST NOTIFIED OF THIS ORDER, EITHER PERSONALLY OR BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED, TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED on this 2nd day of May, 2018

Eric M. Schoen

ERIC SCHOEN, Administrative Officer
Real Estate Appraiser Board

6-7-2018

Date

Bryan Neal

BRYAN NEAL
Assistant Attorney General and
Attorney for the Board

6/7/18

Date



CERTIFICATE OF SERVICE

This is to certify that on this 7 day of June, 2018, a true and correct copy of the foregoing document was mailed by certified mail, return receipt requested, postage prepaid, to:

Service 1st Valuation & Settlement Services
Attention: Mark B. Oliver, President
1000 Cliff Mine Road, Suite 230
Pittsburgh, PA 15275

9214 8902 0982 7500 0092 85

And by U.S. First Class Mail

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

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, OK 73105

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OFFICE OF THE ATTORNEY GENERAL
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Kayla Dekat
Kayla Dekat



RECEIVED
OKLAHOMA INSURANCE DEPT.

MAY 25 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-168A

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

May 23, 2018

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 with respect to licensee 60107AMC in complaint A17-014. The licensee is alleged to have failed to disclose on a renewal application prior discipline from another jurisdiction. The Board proposes to revoke the license without the right to reapply.

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. *Id.* § 858-723(A)(8)-(9). The Board may discipline licensees who “[p]rocur[e] or attempt[] to procure a certificate . . . by knowingly making a false statement . . . in an application for certification or through any form of fraud or misrepresentation.” *Id.* § 858-723(C)(1). 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.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL