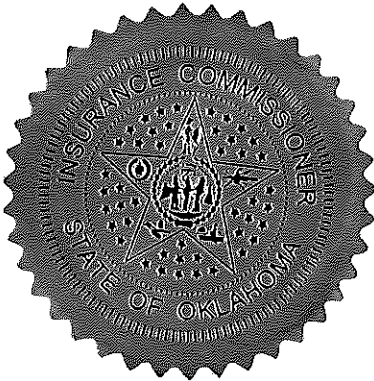


**RECAPITULATION OF MONTHLY BILLING  
 COMPLAINT #17-026  
 Matter of Lura Merrell**

PERIOD		CURRENT BILLING	
DATE	COMPLAINT # AND RESPONDENTS	HOURS	AMOUNT
	<b>DERRYBERRY &amp; NAIFEH LLP</b>		
February, 2018	#17-026 MERRELL	7.00	\$980.00
March, 2018	#17-026 MERRELL	4.00	\$560.00
April, 2018	#17-026 MERRELL	6.25	\$875.00
April 19, 2018	<b>Disciplinary Hearing Panel Mileage:</b>		
	Travis Jones, Hearing Panel Officer		\$10.34
	Robert Kerbo, Hearing Panel Officer		\$111.40
	<b>TOTAL BILLING</b>	<b>17.25</b>	<b>\$2,536.74</b>



**"I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECAP OF AMOUNTS INVOICED IN THE ABOVE-REFERENCED MATTER.**

Dated this 28th day of June, 2018

  
**CHRISTINE MCENTIRE, DIRECTOR  
 REAL ESTATE APPRAISER BOARD**



(Exhibit 2) that the certified mail item number 9214 8902 0982 7500 0055 08 was so delivered on February 28, 2018. The Respondent did not appear in person or through legal counsel on April 19, 2018, at the appointed time (9:30 a.m.) or by 9:33 a.m., the time when the proceedings began, and after allowing the Respondent additional time to arrive until 9:45 a.m., the Respondent failed to appear in person and the Respondent was not represented by an attorney at the hearing.

In response to a question from the Board's Hearing Panel Counsel, the Board's Prosecutor indicated that as of the date and time of the scheduled hearing, to the best of his knowledge no attorney had filed an entry of appearance on behalf of the Respondent.

Neither party to these proceedings requested that a court reporter record this matter. No proposed findings of fact were submitted to the Board by either party to these proceedings.

The Board's Prosecutor stated that he wished to correct a scrivener's error in Section 15 on page 3 of the Notice which should read "...her report" rather than "...his report". The correction requested was noted and made to the Notice.

In light of the absence of the Respondent, the Board's Hearing Panel Counsel asked the Board's Prosecutor how he wished to proceed. The Board's Prosecutor informed the Hearing Panel that under the Board's Rules OAC 600: 15-1-12 for a Failure to Appear, the Hearing Panel could proceed with this matter either as a Default due to the absence of the Respondent or proceed with the formal hearing against the Respondent and determine the matter in the absence of the Respondent. The Board's Prosecutor stated his preference would be to move for a Default against the Respondent. In reference to the Board's Rule OAC 600: 15-1-12, the Board's Prosecutor noted that under the Rule, the "Allegations of Fact" in the Notice (pages 2-3) may be deemed admitted. After a brief discussion, the three members of the Hearing Panel each expressed their view in the absence of the Respondent to proceed with this matter as a Default and the Default was granted.

### **PRELIMINARY MATTERS**

The first exhibit presented, marked by hand as Exhibit 1, was identified as a copy of a screen shot of a part of the Board's Licensee Data Base which contains the Respondent's name, address, and other licensure information (with the Social Security Number (SSN) redacted). There being no objection, Exhibit 1 was admitted into evidence. The Respondent's last-known residence and work address is listed in the Board's Licensee Data Base as 925 S. Maxwell Street, Siloam Springs, Arkansas 72761, which address was also the address used by the Board to submit the Notice to the Respondent as noted in the Certificate of Mailing on page 7 of the Notice together with the certified mail item number 9214 8902 0982 7500 0055 08.

The second exhibit presented, marked by hand as Exhibit 2, was identified as a copy of a letter dated March 5, 2018, from the USPS that the certified mail item number 9214 8902 0982 7500 0055 08 (a number that matches the certified mail item number in the Certificate of Mailing on page 7 of the Notice) was delivered to the Respondent's last-known residence and work address, 925 S. Maxwell Street, Siloam Springs, Arkansas 72761, which exhibit evidences the fact that the Respondent did receive the Notice on February 28, 2018, and which Notice listed the scheduled hearing date of April 19, 2018, at 9:30 a.m. There being no objection, Exhibit 2 was admitted into evidence.

### **Christine McEntire Testimony as to the Notice (Summary)**

According to the sworn testimony of the Board's Director, Christine McEntire, she is and has been the Board's Director since August of 2011, that she has worked for the Board since July of 2007, that as part of her duties she oversees the Board's disciplinary matters including this one involving the Respondent Lura D. Merrell, and that in this matter the Board does have proper and timely service of the Notice on the Respondent through first class U.S. certified mail with return

receipt requested on February 28, 2018, at the Respondent's last-known residential and business address of 925 S. Maxwell Street, Siloam Springs, Arkansas 72761.

Ms. McEntire identified the exhibit marked as Exhibit 1 to be a copy of a screen shot of a part of the Board's Licensee Data Base which contains the Respondent's name, address, and other licensure information. The Respondent's last-known residence and work address is listed in the Board's Licensee Data Base as 925 S. Maxwell Street, Siloam Springs, Arkansas 72761, which address was also the address used by the Board to submit the Notice to the Respondent as noted in the Certificate of Mailing of the Notice together with the certified mail item number 9214 8902 0982 7500 0055 08.

Ms. McEntire identified the exhibit marked as Exhibit 2, to be a copy of a letter dated March 5, 2018, from the USPS received by the Board, that provides that the certified mail item number 9214 8902 0982 7500 0055 08 (a number that is the same number and matches the certified mail item number in the Certificate of Mailing on page 7 of the Notice) was delivered to the Respondent's last-known residence and work address, 925 S. Maxwell Street, Siloam Springs, Arkansas 72761, which exhibit evidences the fact that the Respondent did receive the Notice on February 28, 2018. Ms. McEntire noted that the USPS letter bears a photocopy of the hand-written signature of "Lura Merrell", the Respondent, which evidences the fact that the Respondent did receive and sign for the Notice on February 28, 2018, and which Notice listed the scheduled hearing date of April 19, 2018, at 9:30 a.m. (Exhibit 2). Ms. McEntire again stated that the Respondent was properly and timely served with the Notice.

At this point, the Board's Hearing Panel Counsel noted that it appeared from the evidence and testimony presented that the Respondent was properly and timely served with the Notice.

### **WITNESSES AND EVIDENCE PRESENTED**

This being a matter of Default by the Respondent, no witnesses other than the Board's Director, Ms. McEntire, were presented and no additional evidence was presented. It should be noted that no appraisal report, grievance or written response, or work file was offered or submitted into evidence in this matter.

There being nothing further in this Default matter, the Board's Prosecutor recommended that the discipline to be imposed against the Respondent in default, be in the form of the Hearing Panel's recommendation to the Board to include an administrative fine of \$1,000.00, all costs of prosecution, and corrective education through a 15 Hour Uniform Standards of Professional Appraisal Practice (USPAP) course.

A Request for Oral Argument before the full Board was not filed by the Respondent and neither the Respondent nor her attorney appeared to address the Board.

### **JURISDICTION**

1. The Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, § 858-700, *et seq.* and to establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act.

2. The proceedings herein were conducted in accordance with the provisions of the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-700 *et seq.*, the Oklahoma Administrative Procedures Act, 75 O.S. §§ 301-323, and as set forth at the Oklahoma Administrative Code, §§600:15-1-1 thru 600:15-1-22.

3. The Respondent LURA D. MERRELL is a certified residential appraiser (“CRA”) in the State of Oklahoma, holding certificate number 10779CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on February 17, 1993.

### **FINDINGS OF FACT**

The Board hereby adopts in full the Findings of Fact of the Disciplinary Hearing Panel as follows:

1. The Respondent LURA D. MERRELL is a certified residential appraiser in the State of Oklahoma, holding certificate number 10779CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on February 17, 1993.

2. In March or April of 2017, the Respondent was hired by George Richard (the “client”) to complete an appraisal (the “subject appraisal”) for a property located at RR2 Box 196-5, Westville, Oklahoma (the subject property”). The Respondent completed and transmitted the subject appraisal and transmitted the appraisal report with an effective date of April 5, 2017. The subject appraisal’s intended purpose was for an “Asset Value of Improvements”.

3. The Respondent committed a series of errors in the appraisal report which led to a misleading, confusing, and non-credible appraisal report. These errors include, but are not limited to, the following in paragraphs 4 through 13.

4. The Respondent’s original value of the subject property was \$94,000.

5. After some revisions, an amended appraisal came in at \$95,000.

6. There is some date confusion with the three appraisal reports being dated May 1, 2017, May 18, 2017 and then April 28, 2017.

7. In total, there were 15 revisions which is an excessive amount to have for a credible appraisal report.

8. The survey of the property shows a one-acre tract, but county plat mapping system shows the 52 acres. The Respondent does not explain or analyze this discrepancy in her appraisal report.

9. The plat reflects a road easement that runs through the subject property which was not identified in the Respondent's appraisal report.

10. There is no data verification source for comparable sale #2.

11. Respondent identifies the foundation as an issue and states "see crawl space photographs", yet there are no crawl space photographs attached to the appraisal report

12. In her written response to the Board, the Respondent writes that someone named Terry Ratcliff assisted her, but this individual is not identified in the appraisal report as contributing assistance as required by USPAP.

13. In her written response she further states that "the subject is not a sale, just an estimate of value", which does not make sense.

#### **CONCLUSIONS OF LAW**

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

1. The Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858- 726, in that Respondent violated:

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

B) Standard 1, Standards Rules 1-1 and 1-4, and 1-6; Standard 2, Standards Rule 2-1 and 2-3 of the Uniform Standards of Professional Appraisal Practice. These include the subsections of the referenced rules.



2. The 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."

3. The 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."

4. The 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."

5. The 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."

#### **FINAL ORDER**

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

1. The Respondent Lura D. Merrell shall pay an administrative fine in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** to the Board. Payment of the fine shall be remitted to the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

2. The Respondent Lura D. Merrell shall pay all of the costs expended by the Board for legal fees and travel costs incurred in this matter. The Board staff will provide a statement of the costs incurred to Respondent with the final order. Costs shall be paid in accordance with 59 O.S. § 858-723(B).

3. The Respondent Lura D. Merrell shall successfully complete corrective education

as follows:

The **FIFTEEN (15) HOUR** Course Number 600: National USPAP Course.

The course(s) identified above must be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **ONE HUNDRED EIGHTY (180) DAYS** from the date of the Board Order plus a period of thirty (30) days after the Respondent Lura D. Merrell is notified of the final agency order either personally or by certified mail, return receipt requested. The course(s) identified above must be tested and must be a live course(s), attended in person by the Respondent (not distance and/or correspondence and/or on-line course and/or a webinar course). The course(s) identified above shall be allowed to be counted toward continuing education credit by the Respondent Lura D. Merrell.

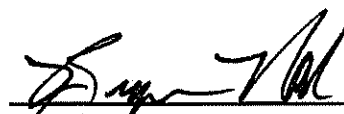
4. Failure by Respondent Lura D. Merrell to comply with any requirement of this order shall result in her appraisal credential being suspended instantly, with notification forwarded immediately to Respondent Lura D. Merrell either personally or by Certified Mail, return receipt requested.

**THE BOARD WISHES TO ADVISE THE RESPONDENT THAT SHE HAS 30 DAYS FROM THE DATE HE OR SHE 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 6<sup>th</sup> day of June, 2018

  
\_\_\_\_\_  
ERIC SCHOEN, Administrative Officer  
Real Estate Appraiser Board

6-6-2018  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
BRYAN NEAL  
Assistant Attorney General and  
Attorney for the Board

6/7/18  
\_\_\_\_\_  
Date



**CERTIFICATE OF MAILING**

I, Kayla Dekat, hereby certify that on the \_\_\_\_ day of June, 2018 a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

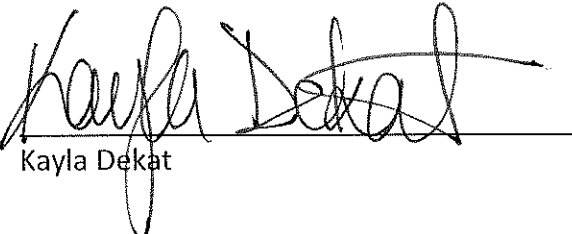
**Lura D. Merrell**  
925 S Maxwell St  
Siloam Springs, AR 72761 4233

9214 8902 0982 7500 0102 29

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. 21<sup>st</sup> Street  
Oklahoma City, OK 73105

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

  
\_\_\_\_\_  
Kayla Dekat



RECEIVED  
OKLAHOMA INSURANCE DEPT.

JUN 27 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2018-238A

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

June 27, 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 (i) pursuant to a consent order with licensee 12780CRA in Board complaint 17-030, and (ii) against licensee 10779CRA with respect to Board complaint 17-026. Both complaints alleged that the licensees prepared misleading appraisal reports. With respect to complaint 17-030, the Board proposes to require licensee 12780CRA to complete corrective education courses and pay \$2,500 in prosecution costs. With respect to complaint 17-026, the Board proposes to require licensee 10779CRA to pay a \$500 fine and all prosecutorial costs, and to complete a corrective education course.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board to require a licensee to complete educational programs, to pay administrative fines and to pay prosecutorial costs if he/she violates any provision of the Act or Board Rules. *See* 59 O.S.Supp.2017, § 858-723(A)(7)-(9). The Board may discipline licensees who "violat[e]...any of the standards for the development or communication of real estate appraisals as provided in the [Act]," "[f]ail[]...to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal," act "negligent[ly] or incompetent[ly] in developing an appraisal, in preparing an appraisal report or in communicating an appraisal," "[w]illfully disregard[] or violat[e] any provision of the [Act]," and/or "[v]iolat[e] any of the provisions in the code of ethics set forth in th[e] [A]ct." *Id.* § 858-723(C)(6)-(9), (13); *see also id.* § 858-732(A)(1). The Act also requires licensees to adhere to the Uniform Standards of Professional Appraisal Practice, which contain professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed actions 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 these actions advance the State's policy to uphold standards of competency and professionalism among real estate appraisers.



MIKE HUNTER



RYAN CHAFFIN  
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL