

March 3, 2016, as verified by the sworn Affidavit of Service of Process signed by Lewis Garrison on March 4, 2016, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, did not appear in person at the appointed time (9:30 a.m.) or by 9:32 a.m., the time when the proceedings began, and after allowing the Respondent additional time to arrive until 9:43 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 Director, Christine McEntire, indicated that as of the date and time of the scheduled hearing, she had not heard from the Respondent by telephone or otherwise as to whether the Respondent or an attorney on his behalf would or would not appear for the hearing. Ms. McEntire indicated that she did not expect that Mr. Buford would appear at the hearing because his license expired at the end of last year. The Board's Prosecutor indicated that as of the date and time of the scheduled hearing, he had received no word from the Respondent as to whether the Respondent or an attorney on his behalf would or would not appear for the hearing.

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.

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 proceed with the formal hearing and present the case in chief against the Respondent. After a brief discussion, the three

members of the Hearing Panel each expressed their view to proceed with the formal hearing.

PRELIMINARY MATTERS

The Board's Prosecutor initially moved for the admission of three (3) exhibits into evidence. Two exhibits marked as Exhibits 1 and 2, were contained in a trial notebook, the page numbers of which were Bates-stamped. The exhibit marked as Exhibit 3 was presented separately and was not included in the trial notebook.

The first exhibit presented, marked by hand as Exhibit 3, was identified as a copy of an Affidavit of Service of Process on the Respondent Terry L. Buford which was signed under oath on March 4, 2016, by Lewis Garrison, a member of the Oklahoma Insurance Department's Anti-Fraud Unit, that indicates Mr. Garrison personally served the Respondent with a copy of the Notice at the Respondent's last-known business address and current place of employment, Qdoba Mexican Grill, 7002 NW Expressway, Oklahoma City, Oklahoma 73132, on March 3, 2016 (Board's Exhibit 3), which Exhibit 3 was later admitted into evidence upon its identification by the Board's Director, Christine McEntire.

The second exhibit presented, marked as Exhibit 1, was identified as a copy of the Grievance in the form of a one-page letter by Chris P. Eubanks, the landowner of the real property located at 13465 South Anderson Road, Arcadia, Oklahoma 73003 (the "subject property" or "subject"), together with a copy of the Respondent's Appraisal Report on the real property located at 13465 South Anderson Road, Arcadia, Logan County, Oklahoma 73003 (collectively Board's Exhibit 1), which Exhibit 1 was admitted into evidence without objection.

The third exhibit presented, marked as Exhibit 2, was identified as a copy of the Respondent's Response to the Grievance in the form of a three page letter dated April 29, 2015, together with a copy of the Respondent's work file that the Respondent submitted to the Board with

his Grievance Response (collectively Board's Exhibit 2), which Exhibit 2 was admitted into evidence without objection.

Christine McEntire Testimony as to the Notice (Summary)

According to the sworn testimony of the Board's Director, Christine McEntire, she is the Board's Director, that as part of her duties she works on the Board's disciplinary matters including this one involving the Respondent Terry L. Buford, and that in this matter the Board does have service of the Notice on the Respondent through its personal service by a member of the Oklahoma Insurance Department's Anti-Fraud Unit at the Respondent's place of work. Ms. McEntire identified the exhibit marked as Exhibit 3, to be a copy of the sworn Affidavit of Service of Process on the Respondent Terry L. Buford from the Board's files that indicates that, Lewis Garrison, a member of the Oklahoma Insurance Department's Anti-Fraud Unit, personally served the Respondent with a copy of the Notice, a Letter addressed to Mr. Buford dated February 23, 2016, and a copy of Chapter 15 of the Board's Rules (OAC 600:15), at the Respondent's last-known business address and current place of employment, Qdoba Mexican Grill, 7002 NW Expressway, Oklahoma City, Oklahoma 73132, on March 3, 2016, which Affidavit was signed by Mr. Garrison on March 4, 2016 (Board's Exhibit 3). Exhibit 3 was admitted into evidence upon its identification by the Board's Director Christine McEntire under oath as a witness, to which admission there was no objection.

WITNESSES AND EVIDENCE PRESENTED

In addition to the testimony of the Board's Director, Christine McEntire, previously given, the Board's Prosecutor presented one (1) witness in support of the case against the Respondent: Jerry L. Jones, a certified general appraiser licensed as 10186CGA, of Shawnee, Pottawatomie County, Oklahoma.

Jerry L. Jones Testimony (Summary)

Jerry L. Jones, being duly sworn, testified that as she lives in Shawnee, Oklahoma, that she is licensed as an Oklahoma Certified General Appraiser, and that she serves as a member of the Board's Standards and Disciplinary Procedures Committee (OAC 600:20-1-1), that includes service in disciplinary matters as a witness and that she received no compensation for providing her testimony. Ms. Jones stated that at the request of the Board's Prosecutor, she reviewed the documents related to this matter that he supplied to her that she identified as including the Grievance by the landowner (Exhibit 1, page 1), Respondent's appraisal report (Exhibit 1, pages 2 through 22), the Respondent's Response to the Grievance (Exhibit 2, pages 1 through 3), and the Respondent's work file (Exhibit 2, pages 4 through 59), and that she has given no opinion as to value of the real property involved in this matter.

In reference to the Respondent's appraisal report, Ms. Jones noted that the records of the Logan County Assessor in the Respondent's work file indicate that the lot size of the subject property was 4.0 acres (Exhibit 2, page 10), which is larger than the 3.64 acre lot size reported by the Respondent for the subject in his appraisal report section entitled "Sales Comparison Approach" (Exhibit 1, page 2) and in his appraisal report section entitled "Site" (Exhibit 1, page 3). Ms. Jones further said that the Respondent's site lot dimensions were reported incorrectly in the Respondent's appraisal report section entitled "Site" (Exhibit 1, page 3) while reported correctly elsewhere in the Respondent's appraisal report in the section entitled "Additional Comments" (Exhibit 1, page 5). It was noted that the Respondent admitted in his Response to the Grievance (Exhibit 2, pages 1 and 2) that his lot size dimensions on the subject as reported in his appraisal report were incorrect.

Ms. Jones in her review of the Respondent's appraisal report, noted that the subject property (Exhibit 1, page 1) and comparable one (Exhibit 2, page 14) are both located in the Edmond School

District while the Respondent's comparables two (Exhibit 2, page 15) and three (Exhibit 2, page 16) are located in the Luther School District, facts that were not disclosed or addressed in the Respondent's appraisal report. Ms. Jones indicated that properties in the Edmond School District generally command a higher sales price in the market than do those located in the Luther School District.

Ms. Jones also noted from her appraisal report review that the Respondent made no adjustments for the differences in the lot sizes of the three comparables chosen by the Respondent. Ms. Jones pointed out certain differences between the subject property and the chosen comparables. As to comparable one, it was noted that it sold two months earlier, that its located in the same neighborhood as is the subject property, that comparable one and the subject property are both located on 4.0 acre lots that were not subdivided but were given metes and bounds legal descriptions, both were built by the same builder, that they were both built at approximately the same time, and that each was built on the same county road that was in rough shape. The difference in the square footage between the subject and comparable one is minimal with the subject being larger by 365 square feet. Ms. Jones noted that, unlike the subject and comparable one, comparables two and three were both located in a gated subdivision at some distance (over three miles) from the subject and comparable one.

The price per square foot of the subject property was appraised by the Respondent to be \$102.25, while the price per square foot was calculated by the Respondent of comparable one to be \$109.80, of comparable two to be \$104.06, and of comparable three to be \$105.26. Ms. Jones said that, while a minimal difference, the subject contained 365 more square footage than comparable one. The Board's Prosecutor asked if the Respondent's calculation of \$20.55 per square foot for those 365 feet would be correct, to which question Ms. Jones responded that such square footage

cost calculation appeared to be the figure determined by the Respondent without any explanation for the adjustment given by the Respondent in his appraisal report.

In looking at the grids in the "Sales Comparison Approach" section of the Respondent's appraisal report (Exhibit 1, page 4), Ms. Jones observed that while comparable one was located 0.26 miles south of the subject property, that comparable two was located 3.27 miles to the southeast of the subject property and that comparable three was located 3.45 miles to the southeast of the subject property. Further, Ms. Jones noted that the Respondent provided no age adjustments on any of the chosen comparables even though comparable two has never been lived in. Still further, Ms. Jones said that the subject contained 365 more square feet than comparable one. Ms. Jones went on to point out that while the Respondent's calculations in the appraisal report section entitled "Cost Approach" (Exhibit 1, page 5) were reasonable, there was no support provided as to the subject's site value to explain the \$45,000 value reported, and there were no print-outs or other supporting data on site values in the Respondent's work file (Exhibit 2, pages 4 through 59).

It was noted by Ms. Jones that the landowner mentioned the existence of a metal shop building on the subject property in his Grievance (Exhibit 1, page 1) while the Respondent failed to disclose the presence of any shop on the subject property in his analysis and in his appraisal report (Exhibit 1, pages 2 through 22).

In response to a question about the apparent presence of a corrected appraisal report in the Respondent's work file (Exhibit 2, pages 40 through 59) that the Respondent referred to in his Response to the Grievance (Exhibit 2, page 2), Ms. Jones said that appeared to be the case but that as the Respondent indicated in his Response to the Grievance (Exhibit 2, page 2) that the corrected appraisal report was not ready for uploading to the client lender, she was not sure that the Respondent actually transmitted the corrected appraisal report to the client lender, that such

corrected appraisal report was dated the day before the Respondent submitted his work file to the Board, and noted that the conclusion of value was the same in the Respondent's appraisal report and in the corrected appraisal report.

Jerry Jones commented that the subject property is located in Logan County in an area without a lot of development six miles east of I-35, that its located on a county road that is in rough shape, that it was built by 4Corners Development, that the subject was not a high end finish, that the lot is not in a platted subdivision without any covenants that run with the land, that the area has a number of five acre tracts with metes and bounds legal descriptions, and that all sales were of properties developed by 4Corners Development.

In response to a question about the existence of any photographs of the unreported metal shop building on the subject property, Ms. Jones said that no photographs were attached to the Respondent's appraisal report that were taken inside the unreported shop building and that accordingly it was difficult for her to know the quality of its construction.

In response to a question about other comparable sales, Ms. Jones noted that that for the six month period that the Respondent researched, that these three comparable sales were the sales for that period. Ms. Jones noted that unlike the Respondent, she went back twelve months to research sales and found a few more comparable sales.

The Respondent did not file a Request for Oral Argument and did not appear to provide oral argument during the board meeting scheduled for June 1, 2016.

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. Respondent TERRY L. BUFORD is a state licensed appraiser in the State of Oklahoma, holding certificate number 12784SLA and was first licensed with the Oklahoma Real Estate Appraiser Board on December 18, 2007.

FINDINGS OF FACT

The Board adopts in full the Findings of the Hearing Panel and that the following Facts were proven by clear and convincing evidence:

1. Respondent TERRY L. BUFORD is a state licensed appraiser in the State of Oklahoma, holding certificate number 12784SLA and was first licensed with the Oklahoma Real Estate Appraiser Board on December 18, 2007.

2. On or about February 17, 2015, Respondent was hired to complete an appraisal (the "appraisal") for a property located at 13465 South Anderson Road, Arcadia, Oklahoma (the "subject"). The Respondent completed and transmitted the appraisal report with an effective date of February 17, 2015. The appraisal report identifies BOKF, NA dba Bank of Oklahoma, Oklahoma City, Oklahoma, as the client lender (the "client"). The appraisal's intended use was for a "Refinance Transaction".

3. The Respondent committed a series of errors in the appraisal report (Exhibit 1,

pages 2 through 22) which led to a misleading and non-credible appraisal report. These errors include, but are not limited to, the following in paragraphs 4, 5, 6, and 7.

4. The Respondent incorrectly reported the subject lot size is 3.64 acres in the Respondent's Appraisal Report section entitled "Site" (Exhibit 1, page 3); its true size is 4.0 acres as reported in the Respondent's Appraisal Report section entitled "Additional Comments" as the legal description located on the last line of the section (Exhibit 1, page 5) and as provided in the Respondent's work file from the records of the Logan County Assessor as the "legal description" located at the bottom of the page (Exhibit 2, page 10).

5. The Respondent utilized comparables that were located in two different school districts. The subject and comparable one are in the Edmond School District and two of the comparables, comparables two and three, are in the Luther School District. The Respondent, in his appraisal report, did not address that there were two different school districts and the effects on value of two different school districts, if any.

6. Comparable one sold two months earlier and is located in the same neighborhood as the subject. Comparable one and the subject are both on 4.0 acre lots, both built by the same builder, built at approximately the same time, and built on the same county road. The difference in square footage between the two is minimal, with the subject property larger (3,325 to 2,960 square feet). However, comparable one does have a shop/barn, has a one-half (1/2) less bathroom, has fewer rooms (although the same number of bedrooms), and it has a slightly lower trim level. Comparable one sold in December, 2014, for \$109.80 per square foot, and the Respondent appraised the subject at \$102.26 per square foot; 7% lower than comparable one. This would result in the extra 365 square footage of the subject being valued at \$50.00 per square foot with

no explanation for the adjustment. Accordingly, the Respondent's adjustments do not appear to be credible.

7. The Respondent provides no support for his site value and he left the shop completely out of his appraisal report and his analysis.

CONCLUSIONS OF LAW

The Board adopts in the full the Conclusions of Law as determined by the Hearing Panel below:

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

Standard 1, Standards Rules 1, 1-1, and 1-4; Standard 2, and Standards Rule 2-1 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."

FINAL ORDER

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

1. The Respondent Terry L. Buford 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 Terry L. Buford shall successfully complete corrective education as follows:

- The **THIRTY (30) HOUR** Course Number 602: Basic Appraisal Procedures

The course(s) must all be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of the Board Order plus a period of thirty (30) days after the Respondent Terry L. Buford is notified of the final agency order either personally or by certified mail, return receipt requested. The course(s) must be tested and must be live courses, attended in person by the Respondent (not distance and/or correspondence and/or on-line courses). The course(s) may be counted toward continuing education credit by the Respondent.

3. The Respondent Terry L. Buford 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).

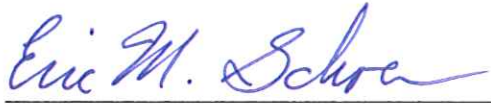
4. Failure by Respondent to comply with any requirement of this order shall result in his appraisal credential being suspended instantly, with notification forwarded immediately to Respondent by Certified mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS THIRTY (30) DAYS FROM THE DATE THE RESPONDENT IS 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 this 1st day of June, 2016.



By: 
BRYAN NEAL, Assistant Attorney General
Counsel to the Board

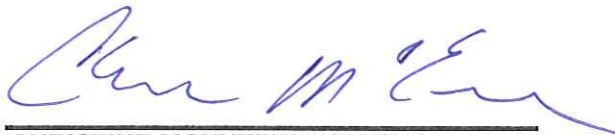
By: 
ERIC SCHOEN, Board Secretary

**RECAPITULATION OF MONTHLY BILLING
MATTER OF TERRY L. BUFORD
COMPLAINT #15-020**

		CURRENT BILLING	
<u>DATE</u>	<u>COMPLAINT # AND RESPONDENTS</u>	<u>HOURS</u>	<u>AMOUNT</u>
	DERRYBERRY & NAIFEH LLP		
February, 2016	#15-020 BUFORD	14.50	\$2,030.00
April, 2016	#15-020 BUFORD	20.00	\$2,800.00
	Disciplinary Hearing Panel Mileage:		
4/12/2016	<i>Frank Priegel</i>		\$112.32
4/12/2016	<i>Michael C. Prochaska</i>		\$53.76
4/12/2016	<i>Jerry R. Juhnke</i>		\$89.64
4/12/2016	<i>Jerry L. Jones (Witness)</i>		\$39.96
	TOTAL BILLING		
		34.50	\$5,125.68

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

Dated this 1st day of June, 2016



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



CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 7th day of July, 2016 a true and correct copy of the above and foregoing Board Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Terry Buford
4905 NW 62nd Terrace
Oklahoma City, Oklahoma 73122

7015 1520 0003 4174 4318

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

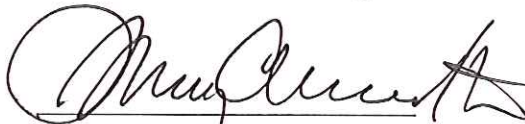
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