

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

In the Matter of JOE GIBSON)	
)	Complaint #16-035
Respondent.)	

CONSENT ORDER FOR RESPONDENT JOE GIBSON

COMES NOW the Oklahoma Real Estate Appraiser Board ("OREAB"), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent JOE GIBSON, represented by James Hodgens, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-700, et seq., the Oklahoma Administrative Procedures Act Title 75 O.S. §§309, 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. Joe Gibson ("Respondent") was originally licensed in 1996 and upgraded from a State Licensed Appraiser to a Certified Residential Appraiser in 2003. This is his first formal complaint.
2. In November of 2015, Respondent accepted an appraisal assignment for an appraisal (the "appraisal") for a property located at 1928 Eagle Lane, Perry, Oklahoma (the "subject"). Respondent listed that the lender/client as Caliber Home Loans ("client"). The report was transmitted to the client, with an effective date of November 20, 2015. The Assignment Type was for a refinance transaction.
3. Respondent committed a series of errors in the report which led to a misleading and non-credible report.

4. The subject is a 4,000 Square Foot home in Perry, Oklahoma, and comparables #1 and #3 were only 2,200 SF. Despite the large difference in Gross Living Area, only a very low adjustment of \$31.50 per Square Foot was made. There was no explanation or support for the adjustments.

5. Comparables #4 through #6 were in Stillwater and no location adjustments were made despite a completely different market area.

6. There was no mention of the pool in the description of improvements section in the report, yet there were some small adjustments in the grid.

7. Land adjustments appear to be extremely off; Respondent explained that he "researched urban sites" and no sales could be found. This is not a credible explanation. As such, his summary of sales comparison is a canned comment. It is typical, if you go outside the subject's area, to provide support for your decision and provide some discussion. There is no reconciliation of the value, and no support for any of the data,

AGREED VIOLATIONS 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 Competency Rule of the Uniform Standards of Professional Appraisal Practice;
- B) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
- C) 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 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)(13) in that Respondent violated 59 O.S. § 858-732(A)(1): "An appraiser must perform competently..."

5. 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:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document,
2. That Respondent 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 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 waives his right to appeal this matter to the District Court.

4. 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.

5. Although this Order acknowledges regulatory violations, Respondent's license is in good standing as long as he complies with the terms of this Consent Order.

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 JOE GIBSON:

1. Shall complete the following courses, which can be taken in person or on-line, said education shall be completed within sixty (60) days after the approval of this

Order:

- a) Course 600: National USPAP (a 15 hour class);
- b) Course #60F or 613: Residential Sales Comparison & Income Approaches (a 30 hour class); and

2. A \$1,000 Administrative fine.

Respondent shall provide the OREAB office proof of completion of the courses within sixty (60) days of this Order's effective date (which will begin upon receipt of the Order's approval from the Oklahoma Attorney General's Office). Respondent shall assure that the courses completed are courses approved by the OREAB and in accordance with this Order.

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 suspended until proof of compliance is filed with the Board.

RESPONDENT:



JOE GIBSON

5/26/17

DATE



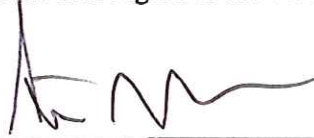
JAMES HODGENS, COUNSEL FOR
RESPONDENT

5/26/17

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

5-31-17

DATE

IT IS SO ORDERED on this 7th day of June, 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, Christine McEntire, hereby certify that on the 14th day of July, 2017 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

James J. Hodgens
ATTORNEY AT LAW
P.O. Box 686
Stroud, OK 74079

7016 3010 0000 2706 6858

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


CHRISTINE MCENTIRE



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-524A

FILED

JUL 14 2017

Real Estate Appraiser Board
State of Oklahoma

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

July 13, 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 11577CRA regarding Board Complaint 16-035. The proposed action is to require the licensee to pay a \$1,000 fine and complete education courses within sixty days to include the 15-hour National USPAP course and a 30-hour course in residential sales comparisons and income approaches. The licensee produced an appraisal report for an appraisal management company as part of a refinance transaction. The licensee committed a series of errors in the report which led to a misleading and non-credible report, including using comparables with smaller square footage; making a very low adjustment in price per square feet; providing no explanation or support for the adjustments; failing to make location adjustments for three comparables; omission of the pool in the description of improvements; inaccurate land adjustments; non credible summary of sales comparisons; lack of support or discussion for going outside the subject's area; and not providing a reconciliation of the value or support for any of the data.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2016, §§ 858-700–858-732, authorizes the Board to discipline licensees based on “[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,” 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)(6-8),(13). The Act requires adherence to the “current edition of” the Uniform Standards of Professional Appraisal Practice (“USPAP”), which is the 2016-2017 edition. 59 O.S.2011, § 858-726.

The USPAP contains professional requirements pertaining to competency and scope of work. *See* 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



ETHAN SHANER
DEPUTY GENERAL COUNSEL