

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

In the Matter of CODY J. BALES,)	
)	Complaint #15-022
Respondent.)	

**BOARD’S DECISION AS TO
DISCIPLINARY HEARING PANEL RECOMMENDATION**

ON THE 3rd day of August, 2016, 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 held on the 7th day of June, 2016 before a duly appointed Disciplinary Hearing Panel of the Oklahoma Real Estate Appraiser Board (the “Board” or “OREAB”). The Board was represented by a Disciplinary Hearing Panel composed of three (3) members, each of whom is a Oklahoma licensed real estate appraiser, as follows; Craig L. Wittmer of Ponca City, Oklahoma; Nena W. Henderson of Edmond, Oklahoma; and Darin A. Dalbom of Oklahoma City, Oklahoma. Nena W. Henderson was elected and served as Hearing Panel Chairman at the hearing. Said panel was represented by the Board’s Attorney and Hearing Panel Counsel, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board’s Prosecutor, Stephen McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording. Likewise, the Respondent Cody J. Bales elected to have this matter recorded by electronic device and to rely on the electronic recording.

The Respondent, Cody J. Bales, whose work address is 7919 E. 50th Street, Tulsa, Oklahoma 74145 (the “Respondent”), having been served a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel dated March 15, 2016 (the “Notice”), by first class U.S. certified mail with return receipt requested, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, the

Respondent appeared in person at the appointed time 9:30 a.m., the time when the proceedings began, and the Respondent was not represented by an attorney at 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.

PRELIMINARY MATTERS

The Board's Prosecutor moved for the admission of three (3) exhibits into evidence, which were marked sequentially as Exhibits 1, 2, and 3, each of which exhibits were contained in a trial notebook, and noting that all three such Board exhibits were each Bates-stamped with page numbers provided within each such exhibit in numerical order. Exhibits 1 through 3 in the trial notebook were admitted into evidence, to which admission there was no objection.

The first exhibit presented, marked as Exhibit 1 (collectively Board's Exhibit 1), was identified as a copy of the Grievance on the Board's standard grievance form signed by homeowner Pam Lewis, P.O. Box 3601, McAlester, Oklahoma 75402, together with a copy of the subject appraisal report by the Respondent on the real property located at 379 Pickens Road, McAlester, Oklahoma 74502 (the "subject property" or "subject"), which Exhibit 1 was admitted into evidence without objection.

The second exhibit presented, marked as Exhibit 2, was identified as a copy of the Respondent's Response to the Grievance in the form of a two page undated letter that was filed with the Board on April 27, 2015 (Board's Exhibit 2), which Exhibit 2 was admitted into evidence without objection.

The third exhibit presented, marked as Exhibit 3, was identified as a copy of the Respondent's work file that the Respondent submitted to the Board, which Exhibit 3 was admitted into evidence without objection.

WITNESSES AND EVIDENCE PRESENTED

In addition to calling the Respondent to testify as a witness, the Board's Prosecutor presented two (2) witnesses in support of the case against the Respondent: Stephen E. Meyer, a certified residential appraiser licensed as 10194CRA, of Edmond, Oklahoma County, Oklahoma, and Trevor James Carr, an unlicensed assistant employed by the Respondent. In his defense, the Respondent presented no witnesses other than himself and he presented no evidence.

Stephen E. Meyer Testimony (Summary)

Stephen E. Meyer, who lives in Edmond, Oklahoma County, Oklahoma, being duly sworn, testified that he has been an appraiser for thirty-five years, that he has been licensed as an appraiser since the first round of state licensure in 1991, that he currently is licensed as an Oklahoma Certified Residential Appraiser, and that he 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, that this matter is not a grievance that he filed, and that he received no direction from the Board's Prosecutor in providing his testimony. Mr. Meyer stated that at the request of the Board's Prosecutor, he reviewed the documents related to this matter that the Board's Prosecutor supplied to him that he identified as including the Grievance by the homeowner Pam Lewis (Exhibit 1, pages 1 and 2), Respondent's appraisal report (Exhibit 1, pages 3 through 28), the Respondent's Response to the Grievance (Exhibit 2, pages 1 through 2), the Respondent's work file (Exhibit 3, pages 1 through 60), and the Notice of Disciplinary Proceedings and Appointment of Hearing Panel issued in this matter.

Mr. Meyer testified that the Respondent's appraisal report (Exhibit 1, pages 3 through 28) was for a property located at 379 Pickens Road, McAlester, Oklahoma 74501 (previously defined herein as the "subject property" or "subject"), that the appraisal report was prepared by the

Respondent Cody Bales, an appraiser from Tulsa, Oklahoma, that the City of McAlester, Oklahoma is located south of Tulsa about 40 or 50 miles in Pittsburg County, that a Multi List Service (MLS) exists in McAlester, Oklahoma, and that in his review of the Respondent's work file (Exhibit 3), that he could find no MLS data sheets from Pittsburg County, Oklahoma.

Mr. Meyer testified that the Respondent's Grievance Response (Exhibit 2) mentions in paragraph 3 on page 1, that peer counsel is important to someone being or becoming geographically competent but that the Respondent did not list any peer counsel from McAlester, Oklahoma, in his appraisal report, that the Respondent identified his assistant trainee Trevor James Carr to be competent to inspect a property on his own in paragraph 2, page 1 of the Grievance Response (Exhibit 2), that the Respondent claimed that this was a complex assignment in his Grievance Response (Exhibit 2, page 2, paragraph 2), and that having read such Grievance Response (Exhibit 2), Mr. Meyer was led to the belief that the Respondent's assistant trainee Trevor James Carr had performed the inspection of the subject property at 379 Pickens Road, McAlester, Oklahoma 74501.

Stephen E. Meyer next mentioned certain documents that he found in the Respondent's work file. Beginning on page 32 to page 43 of the Respondent's work file (Exhibit 3), are records of the County Assessor of Pittsburg County, and that on page 34 of those records two properties were circled yet neither one was used in the Respondent's appraisal report.

Mr. Meyer proceeded to address the Respondent's choices of comparable sales in Exhibit 1 at page 7. Mr. Meyer noted that the Respondent's appraisal report (Exhibit 1, page 7) provided in the grids that Comparable number 1 is located in Warner, Oklahoma, a distance of 51.89 miles from the subject, Comparable number 2 is located in Muskogee, Oklahoma, a distance of 57.67 miles from the subject, Comparable number 3 is located in Henryetta, Oklahoma, a distance of 45.89

miles from the subject and that all three of these comparables were about 50 miles away from the subject. The fourth comparable mentioned by Mr. Meyer, Comparable number 4 (Exhibit 1, page 12), is located in Checotah, Oklahoma, a distance of 40.08 miles from the subject.

According to Mr. Meyer, the Respondent's appraisal report (Exhibit 1, page 7) provides in the grids that the actual age of the subject is one year, that the actual age of Comparable number 1 is 8 years, that the actual age of Comparable number 2 is 6 years, that the actual age of Comparable number 3 is 9 years, and the actual age of Comparable 4 (Exhibit 1, page 12) is 8 years. Mr. Meyer observed that no adjustments were made in the appraisal report for differences in the ages of any of the Respondent's comparables.

Mr. Meyer noted that as reported by the Respondent (Exhibit 1, page 7), the subject consists of 20 acres, Comparable number 1 consists of 47.73 acres, Comparable number 2 consists of 5 acres, Comparable 3 consists of 10 acres, and Comparable 4 (Exhibit 1, page 12) consists of 5.88 acres, that the Respondent's adjustments were all calculated at \$100.00 per acre, and that such adjustments do not appear reasonable to him.

As to Gross Living Area (GLA) computations, Mr. Meyer noted that the Respondent's appraisal report (Exhibit 1, page 7) provides that the GLA of the subject is 2,454 sq. ft., that the GLA of Comparable number 1 is 1,940 sq. ft., that the GLA of Comparable number 2 is 1,926 sq. ft., that the GLA of Comparable number 3 is 1,820 sq. ft., and the GLA of Comparable 4 (Exhibit 1, page 12) is 2,414 sq. ft.

Mr. Meyer referred to county data sheets (Pittsburg County Records) in the Respondent's work file (Exhibit 3, page 32 through 43), on page 34 that two of these properties that are circled on the page could have been comparables in McAlester as the first property circled has 1,945 sq. ft. and the second property circled has 2,202 sq. ft. In addition, Mr. Meyer noted that the bottom two

properties listed on page 35 were both possible comparables in McAlester, Oklahoma, with one property having 2,023 sq. ft. that was built in 2006, and the other property having 1,858 sq. ft. that was built in 2010. Further, Mr. Meyer noted that the third property listed on page 36 was another possible McAlester comparable sale with 2,083 sq. ft. that was built in 2014, and on page 37, there was another possible comparable located in McAlester, with 1,772 sq. ft. that was built in 1952.

Next, Mr. Meyer addressed the condition of the subject property and the Respondent's comparable sales. According to Mr. Meyer, the Respondent's appraisal report (Exhibit 1, page 7) lists the condition of the subject to be C-2, the condition of Comparable 1 to be C-3, the condition of Comparable 2 to be C-2, the condition of Comparable 3 to be C-3, and the condition of Comparable 4 (Exhibit 1, page 12) to be C-3, noting that there were no adjustments made as to the conditions of any of the Respondent's comparable sales.

Mr. Meyer next mentioned a listing of a prior sale of the subject having been included in the Respondent's appraisal report in the "Sales Comparison Approach" section of Exhibit 1, page 7. The Respondent notes that there was a prior sale of the subject property on October 29, 2015, in his appraisal report that has an effective date of March 26, 2015, or in other words the prior sale date was a date in the future.

Next Mr. Meyer addressed certain Appraiser's Certifications in the Respondent's appraisal report (Exhibit 1, page 10). Mr. Meyer noted Appraiser Certification No. 2 by the Respondent that states in pertinent part as follows: "I performed a complete visual inspection of the interior and exterior areas of the subject property." Another appraiser certification identified by Mr. Meyer is that of Appraiser Certification No. 15 (Exhibit 1, page 10) in which the Respondent certified that he had not withheld any significant information from this appraisal report and that to the best of his knowledge all statements and information in his appraisal report are true and correct.

In response to a question about the Respondent's geographical competence, Mr. Meyer stated that in his opinion the Respondent was not geographically competent because the Respondent is not a member of the Multi List Service that includes Pittsburg County, Oklahoma, in which county the subject property is located. Noting the Respondent's grievance response (Exhibit 2, page 1) as to the Respondent claiming he did not need to be a member of the MLS that includes Pittsburg County, Oklahoma, and that he was prepared to contact Century 21 Real Estate office in McAlester, Mr. Meyer testified that it appears that the Respondent did not actually contact any realtor or real estate agent for assistance in McAlester, Oklahoma, the location of the subject property.

In response to a question as to the Respondent's appraisal report being a credible report, Stephen Meyer stated that the Respondent's appraisal report was not a credible report, that the Uniform Standards of Professional Appraisal Practice (USPAP) requires that an appraiser look at and analyze prior sales which the Respondent did not do in this appraisal report, that there were no other sales disclosed, and that an appraiser also has to report prior property transactions.

In response to a question as to his review of the Respondent's work file (Exhibit 3), Mr. Meyer testified that he could find no support for where the data came from in the Respondent's appraisal report, that there was some data on sales in the records of the County Assessor of Pittsburg County with some lots, some acreages, that all were smaller parcels, and that the subject property was unplatted rural acreage.

In response to a question from a member of the Hearing Panel, Mr. Meyer stated that he performed no appraisal review and that he performed only a cursory review. At this point, Mr. Meyer was excused.

Trevor James Carr Testimony (Summary)

Mr. Carr was called to testify as a witness by the Board's Prosecutor. Upon being duly sworn, Trevor James Carr testified that he lived in Tulsa, Oklahoma, that he started in the appraisal practice in August of 2014, that he holds no licensure from the State of Oklahoma as an appraiser, that in connection with his working for the Respondent, in general he pulls comparable sales, that he takes photos, that he performs measurements, that he performs inspections and that goes with the Respondent to perform inspections, that he has worked with the Respondent for almost two years, and that the Respondent has been a good teacher. Continuing, Mr. Carr stated that he performed the physical inspection of the subject property himself, that the Respondent was not present for the inspection of the subject, that he performed the visual inspection of the subject, that he took photographs of the subject and the comparables, that he took the measurements of the subject property himself, and that he did not pull any of the comparables for this appraisal report.

In response to a question about the disclosure of his assistance with this appraisal report by the Respondent noted in the Supplemental Addendum (Exhibit 1, page 14), Mr. Carr stated that the disclosure language was inaccurate because he did not pull any of the comparable sales for this appraisal and that he did not who had actually pulled them, that normally the Respondent accompanies him to perform physical property inspections, and that he has performed physical inspections alone about four or five times.

In response to a question about the manner in which he generally inspects property, Mr. Carr stated that he uses Total Software on his phone, that accordingly none of his notes are handwritten or manual, that there is a Note section under the photos that he uses for his notes but that those notes do not transfer over through the Total Software and that such notes accordingly are not in the Respondent's work file.

In response to another question about his assistance with this appraisal assignment, Mr. Carr stated that he did not research any of the comparables, that he took the photos of the comparables over a period of time, and that on one occasion he reached out to a Real Estate Office in McAlester by telephone for assistance but was unable to contact anyone.

In response to a question about his driving time to McAlester, Oklahoma, from Tulsa, Oklahoma, Mr. Carr stated that his driving time to McAlester is about one hour as is the one hour driving time from the comparables located in Muskogee, Checotah, and Henryetta to Tulsa.

Mr. Carr testified that he spoke with the homeowner Pam Lewis several times, that Ms. Lewis wanted the value opinion changed or she wanted a refund, that Ms. Lewis telephoned him four or five times about value, that he told her how to file a rebuttal to the value that was determined, that Ms. Lewis told him that she and her husband owned the land first and that sometime later that they built the improvements.

Mr. Carr stated that he hopes to soon have enough hours logged in to certify as a Certified Residential Appraiser in Oklahoma.

Cody J. Bales Testimony (Summary)

The Respondent was called to testify as a witness in this matter by the Board's Prosecutor. Upon being duly sworn, the Respondent Cody J. Bales testified that his appraisal report in Exhibit 1, page 11, bears his signature.

In response to a request from the Board's Prosecutor, the Respondent read his Appraiser Certification No. 2 from his appraisal report (Exhibit 1, page 10) into the record that states as follows:

I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified

and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.

When questioned about whether he actually inspected the subject property, the Respondent stated that he completed a visual inspection by photos.

In response to a question about the accuracy of Appraiser Certification No. 11 in his appraisal report (Exhibit 1, page 10) that he had knowledge and experience in appraising this type of property in this market area, Mr. Bales admitted that this certification was not accurate at the time of his appraisal and that while he has performed other appraisals in McAlester since performing the one in this matter, that this appraisal was his first appraisal in McAlester, Oklahoma.

In response to a question about the date of a prior sale of the subject property on October 29, 2015, a future date well beyond the effective date of his appraisal report on March 26, 2015, that the Respondent provided in Exhibit 1, page 7, the Respondent stated that he believed that such erroneous prior sale date was a typo.

When questioned about whether the physical proximity of the subject property to each of his four comparable sales being a minimum of more than forty (40) miles away struck him as odd, the Respondent agreed in each instance that it did strike him as odd, adding that the State Licensed Appraiser with whom he was working at the time that pulled these comparables, Brian McCurdy, 13050SLA, had words about this matter and as a result that he no longer works with Mr. McCurdy. The Respondent testified that he had to rely on a lot of verbal communication in connection with this appraisal report while he was in or at the hospital and that he agreed with a lot of the Board Prosecutor's statements.

In response to a question about his assistant Trevor James Carr whom he described in his Grievance Response as a trainee (Exhibit 2, page 1, paragraph 2), the Respondent admitted that Mr.

Carr is not licensed as a trainee, that Trevor James Carr is not eligible to sign as any level of an appraiser, and that Mr. Carr is more contract labor than trainee. The Respondent further noted that he has another assistant named Dustin Davis whom does the same thing as does Mr. Carr, that neither Mr. Davis nor Mr. Carr is licensed as a trainee, and that he has another employee who does data entry for him.

The Respondent was given an opportunity to speak and provide his defense stating that he might get hung, but that he was going to tell the truth anyway. A member of the Hearing Panel replied that no one was out to hang him.

Continuing the Respondent stated that he and Trevor James Carr work together well, that Trevor Carr is mobile, that he would let Trevor Carr inspect properties while he sat in the car outside, that he knew the rule that he was to physically inspect property, that he did not inspect the neighborhood, that he did not inspect or drive by the comparables, that the value was not hit, that SLA Brian McCurdy was supposed to make adjustments but did not do so, that he did not make the adjustments himself, and that SLA Brian McCurdy was not mentioned in his appraisal report as contributing to the appraisal report. Further, the Respondent noted that he has not inspected properties four or five times even when he said that he had done so, that Trevor Carr goes onto a property to Facetime him in real time to show him what Trevor sees in person, that by using the technology in that way through Facetime, that he is not missing anything by way of an inspection, and that using such technology is like having a TV crew there. Further, he uses a laser measure, not a tape and that he prefers digital measuring over the use of tape measuring.

The Respondent described this transaction as a “cash out refi”, that emotions were running high, that he is not a goofball, that the homeowner Pam Lewis was hot about the value he determined, and that she wanted an immediate refund. The Respondent stated that after he accepted

this assignment from his good client Bankers Mortgage Company, that he realized he was in over his head, that he tried to get out of doing it, that it was not going good or like it should go, that he had a sick Grandfather, that he knew that he should inspect inside and outside on all properties, that the sum of \$229,000.00 was the price from the builder to the homeowner Pam Lewis, that most of the upgrades she performed did not add value, and that he hit the original purchase price.

From his work file (Exhibit 3, page 2), the Respondent noted that Valuation Partners was the client and that Bankers Mortgage Company was the lender, that he had a copy of his revised appraisal report in his work file (Exhibit 3, page 4) with a signature date of April 6, 2015, that unlike his original appraisal report (Exhibit 1, page 3) he did make site adjustments in his revised appraisal report (Exhibit 3, page 4) that were incorrectly stated at \$100.00 per acre rather than \$1,000.00 per acre as he intended.

Continuing to explain his revised appraisal report in his work file (Exhibit 3), the Respondent admitted that the neighborhood description was the same on both reports, that the neighborhood boundaries do not match what was actually used (Exhibit 3, page 7), and that his valuation of the subject is the same in both reports.

Mr. Bales stated that he was not the Southeastern MLS at the time he performed this appraisal, but that he is on the Southeastern MLS now as he does continue to do work in McAlester. The Respondent admitted that he should never have taken on this assignment, that the quality of his appraisal work was not good, that it was not as bad as Ms. Lewis said that it was, and that it was not the cleanest report he has ever done.

There being nothing further, the Board's Prosecutor rested his case.

Cody J. Bales Defense

The Respondent Cody J. Bales stated that he had already said all that he had to say, that he

did not want to put any witnesses to testify or present any evidence, that he had nothing further, and that he rested as well.

A Request for Oral Argument was not filed by the Respondent, Cody J. Bales, and Mr. Bales did not appear to present oral argument to the Board at the August 3, 2016 meeting.

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 CODY J. BALES is a certified residential appraiser in the State of Oklahoma, holding certificate number 12855CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 21, 2009.

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. The Respondent CODY J. BALES is a certified residential appraiser in the State of Oklahoma, holding certificate number 12855CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 21, 2009.

2. In March of 2015, the Respondent was hired to complete an appraisal (the “appraisal” or report”) for a property located at 379 Pickens Road, McAlester, Oklahoma (the “subject” or “subject property”). The Respondent completed and transmitted the appraisal to Bankers Mortgage Corporation (the “client”) (Exhibit 3, page 30), with an effective date of March 26, 2015, and a revised appraisal report with a signature date of April 6, 2015. The appraisal’s intended use was for a “Refinance Transaction”.

3. The Respondent committed a series of errors in the report which led to a misleading and non-credible report. These errors include, but are not limited to, the following paragraphs numbered 4 through 12.

4. The Respondent’s business address is in Tulsa, Oklahoma. The subject property is located in McAlester, Oklahoma. The Respondent did not have access to the Southeastern Oklahoma Board of Realtors Multi-List Service (MLS) and was not geographically competent to complete the assignment.

5. The Respondent certified that he performed a complete visual inspection of the interior and exterior of the subject.

6. Instead, the Respondent sent his unlicensed assistant, Mr. Trevor Carr, out to observe, photograph, and measure the subject property. The Respondent did not inspect the subject property.

7. Although there were proximate sales available for analysis, the Respondent’s state licensed associate, Mr. Brian McCurdy, 13050SLA (whose significant real property appraisal assistance was not disclosed in the report), went over forty-five (45) miles away, into entirely different communities, to choose comparable properties.

8. No adjustments were made in the report for the locational differences, nor was

there an adequate discussion as to the need to go so far away for comparables.

9. The Respondent reported that the subject property's actual age was one (1) year. The Respondent did not explain why there were no adjustments to the seven (7) to ten (10) year old comparables.

10. There were conflicting statements made as to the quality of the new construction. The Respondent marked "replacement cost new" yet did not prepare a cost approach for the subject in the report.

11. The Respondent reported that the subject had a date of prior sale/transfer of October 29, 2015, which date is subsequent to the date of the report. The Respondent did not consider and analyze prior sales and/or transfers of the subject.

12. The Respondent's site size adjustments do not make sense nor are they explained in his report.

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:

A) The Ethics Rule and the Conduct Section 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) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, and 1-6; Standard 2, Standards Rule 2-1 and 2-2 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".

6. The 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."

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 appraiser credential of the Respondent Cody J. Bales shall be immediately **SUSPENDED** for a period of thirty (30) days from the date that any final order is entered in this matter plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested.

2. Respondent Cody J. Bales shall be placed on **PROBATION** for a period of **ONE (1) YEAR** beginning immediately upon the date **NINETY-ONE (91) DAYS** from the date of the Board Order plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. During the period of probation, Respondent Cody J. Bales shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth working day of each month detailing all his appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs be sent for review.

3. The Respondent Cody J. Bales shall pay an administrative fine in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)** 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).

4. The Respondent Cody J. Bales shall successfully complete corrective education as follows:

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

The course 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 Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. The course must be tested and must be a live course, attended in person by the Respondent (not distance and/or correspondence and/or on-line course). The course shall **not** be counted toward continuing education credit by the Respondent.

B. The **FIFTEEN (15) HOUR** Course Number 611: Res Market Analysis & HBU

The course must be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **NINETY (90) DAYS** from the date of the Board Order plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. The course may be taken live or on-line. The course shall **not** be counted toward continuing education credit by the Respondent.

C. The **FIFTEEN (15) HOUR** Course Number 622: Adv Res Applications & Case Studies

The course must be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **NINETY (90) DAYS** from the date of the Board Order plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested. The course may be taken live or on-line. The course shall **not** be counted toward continuing education credit by the Respondent.

5. The Respondent Cody J. Bales 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).

6. The Respondent Cody J. Bales shall not serve as a Trainee Supervisor for any person and he shall have no Trainees for a period of three (3) years from the date of the final Board Order plus a period of thirty (30) days after the Respondent Cody J. Bales is notified of the final agency order either personally or by certified mail, return receipt requested.

7. Failure by Respondent Cody J. Bales 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 3rd day of August, 2016.



By: _____

Bryan Neal
BRYAN NEAL, Assistant Attorney General
Counsel to the Board

By: _____

Eric M. Schoen
ERIC SCHOEN, Board Secretary

CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 7th day of September, 2016 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:

Cody J. Bales
7919 E. 50th Street
Tulsa, Oklahoma 74145

7015 1520 0003 4174 4578

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

Craig L. Wittmer, Hearing Panel Officer
PO Box 604
Ponca City, OK 74602

Darin A. Dalbom, Hearing Panel Officer
11901 N. MacArthur Blvd, #G2
Oklahoma City, OK 73162

Nena W. Henderson, Hearing Panel Officer
1408 Sims Ave
Edmond, OK 73013

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


Sherry Ainsworth



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OKLAHOMA INSURANCE DEPT.

SEP 07 2016

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2016-534A

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

September 6, 2016

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 12855CRA. The proposed action is to fine the licensee \$2,000 and require payment of the Board's prosecutorial costs. The Board will also impose a temporary suspension, require one year of probation, and disallow the licensee from serving as a trainee supervisor for three years. The licensee must also complete educational courses covering market analysis, residential case studies, and requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP"). During probation, the licensee will submit work logs to the Board, and the licensee's work product will be subject to review. The licensee produced an appraisal report as part of a refinance transaction, which report disregarded nearby properties, and instead made use of "comparable" properties over 45 miles away. The report did not include location or age adjustments for such properties. Further, the licensee made conflicting statements as to the quality of the construction, failed to consider prior sales or transfers, and incorrectly stated that a prior sale/transfer occurred on a date subsequent to the report. While the licensee claimed to have visually inspected the subject property, in fact an unlicensed assistant was sent to observe, photograph, and obtain measurements.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2015, §§ 858-700-858-732, authorizes the Oklahoma Real Estate Appraiser Board to discipline licensees based on "[v]iolation of any of the standards for the development or communication of real estate appraisals," "[f]ailure . . . to exercise reasonable diligence in developing an appraisal [or] preparing an appraisal report," "[n]egligence or incompetence," "[w]illful[] disregard[] or violat[ion] of any of the provisions of the [Act] or the regulations of the Board," or "[v]iolati[on] of any of the provisions in the code of ethics set forth in [the Act]," 59 O.S.Supp.2015, § 858-723(C)(6), (7), (8), (9), (13); *see also* 59 O.S.2011 § 858-732(A)(1) (real property valuations must be performed "ethically and competently"). The Act requires adherence to the "current edition of" the Uniform Standards of Professional Appraisal Practice ("USPAP"), 59 O.S.2011, § 858-726, which is the 2014-2015 edition.

The USPAP contains professional requirements pertaining to ethics, competency, and scope of work. *See* ETHICS RULE, USPAP-7 (requiring compliance with USPAP standards); COMPETENCY RULE, USPAP-11 (requiring appraisers to be competent to perform assignment or acquire necessary competency); 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-16. Components of Standard 1 clarify that this means the appraiser must employ proper valuation techniques, identify relevant characteristics of the property, analyze relevant factors, and reconcile data and approaches used to arrive at a value conclusion. USPAP-16, 17, 19, 20. Further, Standard 2 requires that appraisal reports communicate all analyses, opinions, and conclusions in a manner that is not misleading. USPAP-21.

The action seeks to enforce requirements of professionalism embodied in the Act and in USPAP. The Board may reasonably believe that imposing temporary suspension, probation, and educational requirements will 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.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal line extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA