

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

In the Matter of LENDER'S e-AMC, LLC)	
)	A17-013
Respondent.)	

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent LENDER'S e-AMC, LLC, thru its attorney of record Leif E. Swedlow, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-801, et seq. and Oklahoma Administrative Code 600:35-1-1, et seq. All sections of this order are incorporated together.

AGREED FINDINGS OF FACT

1. Lender's is an appraisal management company previously registered in the state of Oklahoma under Registration #60021AMC. Lender's eAMC was first licensed in Oklahoma in March, 2011. Lender's eAMC's registration in Oklahoma as an approved appraisal management company expired on March 31, 2016, having not applied for renewal for a term which would have expired on March 31, 2017. A review of the records of the Board reflect that a renewal application was issued on February 3, 2016 and mailed to the designated officer at the address of record for Lender's eAMC. This document was not returned and no payment for renewal was

received.

2. On April 11, 2017 Board staff received an e-mail communication from Diane Hervol of Lender's eAMC in which she wrote:

"It appears we have not received our renewal form and we are expired. It appears we expired on 3/31/2017. I am wanting to get our licensed renewed."

3. Eric Schoen, from the Board's staff, responded to Diane Hervol's e-mail advising her that:

"Unfortunately, your registration actually expired as 3/31/2016 because we did not receive the renewal form or the renewal payment at that time."

4. On April 14, 2017 the Board's Director sent correspondence to Lender's advising them that they needed to take steps to appropriately register their company in Oklahoma or cease any operations which might conflict with the Oklahoma Appraisal Management Company Regulation Act. A review of the Secretary of State's website at that time indicated that Lender's, as a foreign corporation registered in Oklahoma, was also inactive.

5. On April 17, 2017 the Board's Director issued a document subpoena to Lender's requesting a roster or spreadsheet identifying all appraisal assignments conducted in Oklahoma between the date of expiration of Lender's (March 31, 2016) and April 14, 2017.

6. On April 28, 2017 Lender's submitted a roster of appraisal assignments

conducted during the period in which Lender's was actually an inactive appraisal management company. According to the records of Lender's, it processed 496 appraisal assignments in Oklahoma while not properly registered to do so.

7. Lender's experienced a death of a principal officer of the firm and has submitted that its failure to transmit its renewal was due to inadvertent error and/or excusable neglect. Lender's further submits it submitted what it believed, at the time, would be appropriate to effect reinstatement of its license, and complied fully with the Board's information requests.

8. In violation of the *Oklahoma Appraisal Management Company Regulation Act*, Lender's e-AMC has been shown to have operated in Oklahoma in an unregistered capacity between March 31, 2016 and April 14, 2017. Lender's eAMC completed 496 appraisal assignments in Oklahoma without possessing an active license to do so, either by the Oklahoma Secretary of State's Office or the Real Estate Appraiser Board.

9. Lender's has obtained its reinstatement with the Secretary of State and is a foreign Limited Liability Company in good standing, authorized to conduct business in Oklahoma.

CONCLUSIONS OF LAW

1. That Respondent has violated 59 O.S. § 858-804(A): “It is unlawful for a person to directly or indirectly engage or to attempt to engage in business as an AMC, to directly or indirectly perform or to attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an AMC without first obtaining a registration issued by the Oklahoma Real Estate Appraiser Board under the provisions of the Oklahoma Appraisal Management Company Regulation Act.”

2. Pursuant to 59 O.S. § 858-828: “A. The conduct of administrative proceedings shall be in accordance with the Administrative Procedures Act and the Oklahoma Certified Real Estate Appraisers Act and the rules promulgated thereunder for violations of the Oklahoma Appraisal Management Company Regulation Act shall be vested in the Oklahoma Real Estate Appraiser Board, such that the Board, after notice and opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, may issue an order imposing one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a registrant has violated any provision of the Oklahoma Appraisal Management Company Regulation Act or rules promulgated thereunder: 1. Revocation of the registration with or without the right to reapply; 2. Suspension of the registrant for a period not to exceed five (5) years; 3. Stipulations, limitations, restrictions and

conditions relating to conduct of the registrant's appraisal management services practice; 4. Censure, including specific redress, if appropriate; 5. Reprimand; 6. Administrative fines not to exceed Five Thousand Dollars (\$5,000.00) per violation; and

4. Payment of costs expended by the Board for any legal fees and costs and monitoring fees, including but not limited to administrative costs, witness fees and attorney fees.”

CONSENT AGREEMENT

The Respondent, by affixing its 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;
 - 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 its right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court.
4. The Respondent consents to the entry of this Order affecting its professional practice of appraisal management in the State of Oklahoma.
5. All other original allegations in this matter are dismissed.

6. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting after receipt of the executed Order from Respondent, and notice for the Order's placement on that agenda is accepted.¹

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent(s). It is hereby agreed between the parties that this Consent Order shall be presented to the Board with recommendation for approval of the Board at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against it at the subsequent disciplinary hearing. Respondent will be free to defend itself and no inferences will be made from its willingness to have entered this agreement. It is agreed that neither the presentation of the Consent Order nor the Board's consideration of the Consent Order will be deemed to have unfairly or illegally prejudiced the Board or its individual members and therefore will not be grounds for precluding the Board or

¹ Currently the 2018 Board meetings are scheduled for 9:30 a.m. for: March 7, April 4, May 2, June 6, July 11, August 1, September 5, October 3, November 7, December 5.

any individual Board member from further participation in proceedings related to the matters set forth in the Consent Order.

- **THIS CONSENT ORDER IS NOT EFFECTIVE UNTIL ITS APPROVAL BY A MAJORITY OF THE BOARD AND THE APPROVED ORDER RECEIVES A SUBSEQUENT ENDORSEMENT (“SIGNATURE”) BY A REPRESENTATIVE OF THE BOARD. THE EXECUTED ORDER IS THEN SUBJECT TO A WRITTEN ANALYSIS BY THE BY THE OKLAHOMA ATTORNEY GENERAL’S OFFICE.**

ORDER

WHEREFORE, on the basis of the foregoing Agreed Findings of Fact and Agreed Conclusions of Law, it is ordered that:

1. An administrative fine in the amount of Seven Thousand Dollars (\$7,000), to be paid in accordance with 59 O.S. §858-723(B)(2), to be paid within sixty days after this order is approved in two installments of \$3,500 each, with the first installment due within thirty days of this order’s approval, should approval occur, by the Oklahoma Attorney General’s Office.

2. Failure to comply with the preceding paragraphs in a timely manner will result in an instant suspension of Respondent’s registration. For good cause, an

extension may be granted by the Board. An application for an Extension of Time should be filed in sufficient time to be placed on a Board meeting agenda in advance of the deadline.

3. The OREAB agrees that this Consent Order will not be used as grounds for refusal of a new registration of Respondent to do business in Oklahoma as an Appraisal Management Company should Respondent choose to do so.


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.

RESPONDENT:


LENDER'S e-AMC, LLC

6-19-2018
DATE

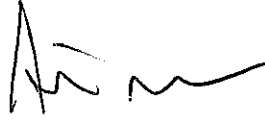
 OBA# 17710
Leif E. Swedlow, Counsel for
LENDER'S e-AMC, LLC

6-19-78

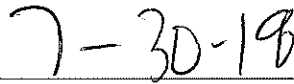
DATE

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



DATE

IT IS SO ORDERED on this 6th day of June., 2018.



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, Kayla Dekat, hereby certify that on the 7th day of September, 2018 a true and correct copy of the above and foregoing Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

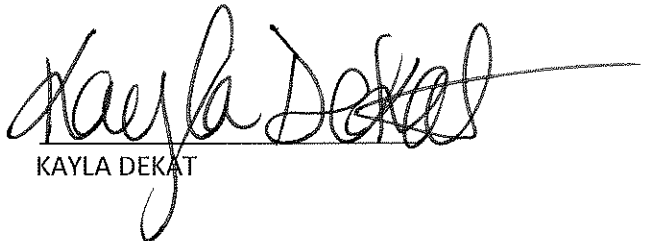
Lender's e-AMC, LLC
Attn: Christopher G. Davis
3400 St Christopher Ct
Round Rock, TX 78665

9214 8902 0982 7500 0126 12

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
Attorney for the Board


KAYLA DEKAT



RECEIVED
OKLAHOMA INSURANCE DEPT.

JUN 27 2018

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2018-237A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 NW 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 agency action that the Oklahoma Real Estate Appraiser Board intends to take (i) with respect to inactive licensee 60114AMC in complaint A17-012, and (ii) pursuant to consent agreement with respect to inactive licensee 60021AMC in complaint A17-013. Both inactive licensees operated in Oklahoma as appraisal management companies (AMC) without properly renewing their credentials. Inactive licensee 60114AMC also failed to place its registration number on an instrument utilized for the procurement of appraisal services. The Board proposes to impose a \$1,100 fine on inactive licensee 60114AMC and a \$7,000 fine on inactive licensee 60021AMC.

The Oklahoma Appraisal Management Company Regulation Act authorizes the Board to impose administrative fines when "a registrant has violated any provision of the [Act]." 59 O.S.Supp.2017, § 858-828(A)(6). The Act provides that "[i]t is unlawful for a person to...engage...in business as an AMC...without first obtaining a registration issued by the [Board] under the provisions of the [Act]." *Id.* § 858-804(A). The Act also requires an AMC "to place its registration number on any instrument utilized...for [the] procurement of appraisal services in [Oklahoma]." 59 O.S.2011, §858-823(C). 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 this action advances the State's policy to provide a process for the registration and regulation of entities engaging in real estate appraisal management services with the State of Oklahoma.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL