

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

In the Matter of DONALD W. RILEY,

Respondent.

)  
)  
)

Complaint #11-078

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

ON THE 2<sup>ND</sup> Day of November, 2012, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board ("the Board") following a disciplinary hearing held on the 24th day of September, 2012. The Board was represented by a duly appointed Disciplinary Hearing Panel composed of three (3) members, William Stephens of Pauls Valley, Oklahoma, John M. Travers of Tulsa, Oklahoma, and H.E. Ted Smith of Stillwater, Oklahoma. H.E. Ted Smith was elected and served as Hearing Panel Chairman at the hearing. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording.

The Respondent, Donald W. Riley, of Chickasha, Oklahoma, appeared in person pro se (without an Attorney), after having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323. The Respondent, Donald W. Riley, elected to have this matter recorded by electronic device and to rely on the electronic recording. Neither party to these proceedings requested that a court reporter record this matter.

Prior to receiving or hearing any evidence or testimony in this matter, the Board through its Prosecutor Stephen McCaleb, "invoked the rule", meaning the rule of witness sequestration or the witness exclusion rule, which rule was explained by the Board through its attorney, Assistant Attorney General Bryan Neal, at the September 24, 2012, hearing due to the Respondent Donald W. Riley appearing pro se, at

which time all those persons in attendance who expected to be called to testify, other than the Respondent, Donald W. Riley, who was informed that he could stay in the hearing room, were asked to step out of the hearing room into the reception area. The Board's Director, Christine McEntire, who was later called to testify, remained in the hearing room. No proposed findings of fact were submitted to the Board by either party to these proceedings.

The Board's prosecutor presented four (4) witnesses in support of the case against Respondent Riley: Christine McEntire, the Board's Director and the first witness called to testify; Robert Hill, the owner of the subject property and the person who filed the grievance in this matter; Brandon King, of Chickasha, Oklahoma, a carpenter by profession who assists his father, a State-Licensed Appraiser named Walter M. King, with measurements and other matters; and Walter M. King, 12517SLA, of Chickasha, Oklahoma. Through the course of the hearing, the Board's prosecutor moved for the admission of six (6) exhibits for the Board into evidence, to which the Respondent Riley stated no objection and all such Board exhibits were admitted. The Respondent offered no exhibits for admission into evidence and accordingly, there were no Respondent exhibits admitted into evidence.

The Board's Director, Christine McEntire, testified that the grievance by Robert Hill, a homeowner and the owner of the subject real property, was initially filed to question the value conclusion in an appraisal and was initially filed against Brandon King who had approached Mr. Hill at his home and, according to Mr. Hill, represented that he was the Appraiser who had arrived to inspect the subject property in connection with Mr. Hill's interest in refinancing his home mortgage. Ms. McEntire testified that in processing Mr. Hill's grievance, the Board's staff could find no Oklahoma-licensed appraiser named "Brandon King" and that the National Registry likewise had no listing of an appraiser named "Brandon King". According to Ms. McEntire, Mr. Hill was contacted to inquire whether the individual who arrived to inspect the subject property could be Mr. Walter M. King, a State-Licensed Appraiser and an older gentleman, to which Mr. Hill responded that the person who inspected his property, took photographs and performed his appraisal,

was a younger gentleman in his 30's or 40's who identified himself as "Brandon King" and who represented to Mr. Hill that he was an appraiser.

The proposed refinance lender was identified to the Board's staff at that time by Mr. Hill to be American Equity Mortgage, St. Louis, Missouri (the "AEM"). In response to the Board's subpoena duces tecum for AEM's complete file in this matter, AEM, under cover of an e-mailed letter dated December 20, 2011, supplied copies of the appraisal documents in its files it identified as follows: (1) Appraisal Order (Credit Card & E-check Authorization); (2) Appraisal Order (AMC); (3) Appraisal Report 1; (4) Appraisal Report 2 (Corrected County); and, (5) AMC's tracking, the said cover letter and appraisal documents were marked as Exhibit 1 and admitted into evidence without objection. It was noted that the Exhibit 1 Appraisal Order (AMC) of Validata Lender Services for the proposed refinance identified the Appraiser to be "Don Riley Real Estate" (Exhibit 1, page 4).

Ms. McEntire testified that she received the subpoenaed documents from AEM as listed in its cover letter including two (2) appraisal reports for the subject property at 11713 Mackel Drive, Oklahoma City (the "subject property"), identified by AEM as Appraisal Report 1 (Exhibit 2) and Appraisal Report 2 (Corrected County) (Exhibit 3), each of which appraisal reports were signed by the Respondent on page 8 of Exhibits 2 and 3 as the Appraiser (page 6 of the Uniform Residential Appraisal Report "URAR"). Ms. McEntire stated that Appraisal Report 1 signed by the Respondent (Exhibit 2) was dated November 7, 2011, and that Appraisal Report 2 signed by the Respondent (Corrected County) (Exhibit 3) was dated November 14, 2011, and the said Exhibit 2 and Exhibit 3 both being admitted into evidence without objection. The Board's Director, Ms. McEntire, further testified that the Board subpoenaed the Respondent's work file and that the documents presented herein as Exhibit 4 under cover of the Board's Subpoena Duces Tecum filed herein on May 15, 2012, were the documents received from the Respondent as his complete work file and were accompanied by a document entitled "Certification of Records" dated May 11, 2012, and signed by the Respondent (Exhibit 4, page 4), which Certification was read into the record by Ms. McEntire as follows "I hereby certify that I have completely and accurately complied with the subpoena and I have

provided all of the specified documents, items, or tangible things requested which are in my constructive or actual possession and control”, followed by the Respondent’s signature. Exhibit 4 was admitted into evidence without objection.

The Board’s Director, Ms. McEntire, noted that the documents provided by the Respondent as his complete work file (and admitted herein as Exhibit 4), did not include either Appraisal Report 1 (Exhibit 2) that Respondent signed or Appraisal Report 2 (Corrected County) (Exhibit 3) that Respondent signed, as provided by AEM, but the Respondent’s work file did include an appraisal report dated November 7, 2011, signed by Walter M. King as the “Appraiser” (Exhibit 4, page 22) that was also signed by the Respondent, Donald W. Riley, as the “Supervisory Appraiser” (Exhibit 4, page 22), under cover of a letter signed by Walter M. King of “King Appraisal Service” as “Licensed Appraiser” dated November 3, 2011, addressed to AEM.

The Board’s second witness was Robert Hill, the homeowner of the subject property, testified that he had attempted to refinance his home, the subject property, with AEM about one year ago and that a man who identified himself as “Brandon King” knocked on his door, stated his name, that he was an appraiser, that he was there at the subject property for purposes of inspection of the subject property and to perform the requested appraisal. Mr. Hill testified that the man who identified himself as “Brandon King” was alone at his door and that at no point did he see anyone else present for the inspection or assist in the inspection. The Board’s prosecutor inquired if Mr. Hill had earlier noticed the two gentlemen who were initially seated immediately behind the Respondent and who left the hearing room previously when asked to do so upon the prosecutor’s “invoking of the rule”, Mr. Hill said that he recognized the younger of the two to be the same gentleman who had knocked on his door, identified himself as “Brandon King” and that he was there to do the appraisal. Mr. Hill said he had not seen the other gentleman before, the older of the two, and did not know his name. Mr. Hill testified that the younger man known to him as “Brandon King” did all the measuring himself, took pictures by himself and that he never saw anyone other than the younger man known to him as “Brandon King” present on his property for the inspection. The Board’s prosecutor

represented to Mr. Hill that the older gentleman whose identity was unknown to Mr. Hill, was Walter M. King.

Mr. Hill testified that he had owned the subject property for ten years, that he did not get his refinancing, that the appraisal report he received was signed by the Respondent Donald W. Riley, that he had never seen the Respondent before that day, and that, in his opinion, the appraisal came in low at \$133,200.00 because he had made numerous improvements on both the inside and the outside of the subject property he verbally identified and as could be seen in the typed list he prepared and provided to the Hearing Panel, which improvements list was admitted into evidence herein as Exhibit 5 without objection. Mr. Hill testified that while he was not a member of any MLS, he prepared a written current market analysis himself through the assistance of a friend who, as his former real estate agent, had access to MLS data, and that such analysis to his mind, showed the appraised value of the subject property to be low. Mr. Hill did not offer his current market analysis into evidence as it was not mentioned by Mr. Hill until such analysis was identified by the Respondent as having been written by Mr. Hill and such analysis was not offered into evidence by the either the Board or the Respondent.

The Board's third witness, Brandon King, testified that he is a carpenter by profession, that he has done appraisal work, that he has studied under his dad, Walter M. King as his supervisor, that he's never been licensed as an appraiser, that he went to the subject property at 11713 Mackel Drive, and that his father was there with him at the subject property but as his father was on the phone, his father remained in his car parked across the street opposite of the subject property. Brandon King testified that his father has bad knees and has trouble walking, that his father and he both measured the exterior portion of the garage and an exterior wall which ran the length of the house, that the assignment was sent from Validata to the Respondent but both his father and the Respondent can see the orders from Validata, that his father and the Respondent both signed the appraisal report because the laws changed a about two years ago and his father is under the supervision of the Respondent, that although his father did not enter Mr. Hill's house that his

father did the sketch, that he (Brandon King) took pictures and that he and his father both took pictures of the comps.

The Board's fourth witness, Walter M. King, testified that he is a State licensed appraiser 12517SLA, of Chickasha, Oklahoma, that he has known the Respondent for forty (40) years, that FHA has changed the rules so now the Respondent signs off as a certified appraiser, that he (Walter King) completes the appraisal, signs off on the appraisal report, sends it to the Respondent who signs as the supervisor, that Validata said that he (Walter King) could not sign the appraisal reports for FHA as he (Walter King) is not certified so he got the Respondent to sign off as he is certified, that the Board gave him no guidance as to FHA requirements, that he took his son Brandon King with him to the subject property to help him as he (Walter King) has knee problems, that his son Brandon King has helped him for eight (8) years, that his son took the photos inside and outside of the subject property, that he did the sketch, that he did everything on the appraisal, and that the accurate appraisal report has the Respondent's signature only.

Continuing, Walter King testified that Validata sends an e-mail with an order to the Respondent, that he can look at Validata to see the orders, that he used to do 15 to 20 appraisals a month for 14 or 15 months, that the respondent was the sole signatory until this appraisal report, that he stopped doing these appraisals 6 to 8 months ago due to the Respondent's discipline of probation, that he does appraisals for conventional loans only, that on the FHA loans there are no more signatures by Walter King and no information gathering activities listed now by Walter King as only the Respondent is certified, that the original appraisal report (Exhibit 2) and the corrected appraisal report (Exhibit 3) are his appraisal reports that he prepared and sent to the Respondent (and only him) to sign, and that both he and the Respondent signed the appraisal report admitted herein as Exhibit 4 that was only for his internal files and that it was not sent to the lender.

After the Board's prosecutor rested the Board's case, the Respondent testified that the appraisal admitted herein as Exhibit 4 (that was not sent to the client AEM) was for Walter King not the lender AEM, admitted that he alone should not have signed the original appraisal report (Exhibit 2) and the corrected

appraisal report (Exhibit 3) due to Walter King's assistance, that it was not his job to communicate with the lender AEM, that he did not disclose the assistance he received from Walter M. King in the original appraisal report (Exhibit 2) and the corrected appraisal report (Exhibit 3) because he took care of that in the appraisal report that was in his work file that was not sent to the client AEM (exhibit 4), that contrary to the representation made by him on page 5 of the URAR that he personally performed the property inspection he admitted that he did not look at the subject property and testified that he looked at the MLS data as he pulls his own data sheets for purposes of verification. The Respondent asserted that the MLS data in his work file (with May 2012 dates) was that which he pulled himself at the time the appraisal was performed. At the request of the Board's prosecutor, the Respondent identified a letter dated September 5, 2012 (Exhibit 6), that the Respondent signed and sent to the Board's prosecutor in which the Respondent states, among other things, that the original appraisal report did not state that the Respondent had not made a visual inspection. Exhibit 6 was admitted into evidence without objection.

In addition to testifying on his own behalf, Respondent Riley presented one witness to testify: Walter M. King, 12517SLA, of Chickasha, Oklahoma. Walter M. King further testified that he (Walter King) prepared the original appraisal report (Exhibit 2) and the corrected appraisal report (Exhibit 3), for the Respondent to sign and send to the client, that he and the Respondent both signed the appraisal report admitted into evidence as Exhibit 4 and that such Exhibit 4 appraisal report was not sent to the client because FHA did not want a signature from anyone other than that of a certified appraiser.

No Request for Oral Argument was filed by the Respondent, and no oral argument was given. The Board, being fully advised, makes the following Order adopting in full the Findings of Fact and Conclusions of Law and modifying the Disciplinary Recommendation of the Hearing Panel:

#### **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 DONALD W. RILEY is a state certified residential appraiser in the State of Oklahoma, holding credential number 10156CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on October 16, 1991.

#### **FINDINGS OF FACT**

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

1. Respondent DONALD W. RILEY is a state certified residential appraiser in the State of Oklahoma, holding credential number 10156CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on October 16, 1991.

2. On or about October 31, 2011, American Equity Mortgage, Inc. through Validata Lender Services (the “client”) hired Respondent to complete an appraisal and an appraisal report (collectively hereinafter referred to as the “appraisal”) for a property located at 11713 Mackel Drive, Oklahoma City, Oklahoma (the “subject property”).

3. Respondent completed the appraisal and transmitted the appraisal to the client sometime in early November. Subsequent to submitting the first appraisal report (Exhibit 2), he transmitted a corrected appraisal report to the client also in November (Exhibit 3); said correction corrected the county location of the subject property from Oklahoma County to Cleveland County.

4. In the appraisal, Respondent represents that he performed a complete visual inspection of the interior and exterior areas of the subject property, and that he also inspected the subject neighborhood and the comparables.



5. The first appraisal report was dated November 7, 2011, with an effective date of November 3, 2011, and valued the property at \$133,200 (Exhibit 2). The corrected appraisal report was dated November 14, 2011, with an effective date of November 3, 2011, and valued the property at \$133,200 (Exhibit 3). Respondent's signature is found on page 6 of the appraisal report (URAR form) for both the original and corrected appraisal reports.

6. Respondent's work file was subpoenaed by the OREAB on May 8, 2012. On May 15, 2012, the OREAB received Respondent's response to the subpoena duces tecum and certified that he had "completely and accurately complied with the subpoena and I have provided all of the specified documents, items, or tangible things requested which are in my constructive or actual possession or control. "The testimony of the Respondent was that there were 12 to 14 MLS sheets in his work file that were contemporaneous with the appraisal yet the work file provided by the Respondent contained only MLS sheets dated May 2012.

7. The documents supplied by Respondent in response to the subpoena duces tecum included multi listing service data which was prepared for Walter King in May 2012. Walter King was not identified in the original appraisal report (Exhibit 2) or the corrected appraisal report (Exhibit 3) as having provided assistance to the Respondent. Further, the appraisal report submitted by the Respondent in response to the subpoena duces tecum (Exhibit 4) had the Respondent listed and signing as the supervisory appraiser, with Walter King as a state licensed appraiser. The appraisal report submitted by the Respondent in response to the subpoena duces tecum (Exhibit 4) has the Respondent stating that he did not inspect the subject property, which appraisal report is contrary to the original appraisal report (Exhibit 2) and the corrected appraisal report (Exhibit 3) submitted to the client. The appraisal report, also signed by Walter King (Exhibit 4), was not submitted to the client but was retained in the Respondent's work file only as verified by the subpoenaed documents supplied by the client. The Respondent and Walter King both admitted to having a fee-splitting arrangement between each other.

8. Brandon King, who holds no license with the Board, is the person who inspected the subject property according to the testimony of the owner of the subject property, Robert Hill. Respondent did not inspect the subject property.

9. Respondent did not maintain a work file contemporaneously with his appraisal report as evidenced by the MLS data from May 2012 in the work file of the Respondent supplied to the Board in response to a subpoena duces tecum (Exhibit 4, pages 1-3).

#### CONCLUSIONS OF LAW

The Board hereby adopts in full the Conclusions of Law of the Disciplinary Hearing Panel that:

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 its Conduct and Record Keeping Sections 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 and 1-1, and 1-4; Standard 2, 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)(5): "An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person."

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. Respondent Riley has violated 59 O.S. § 858-723(C)(13), in that Respondent Riley violated 59 O.S. § 858-732(A)(1) as he did not perform ethically and competently and did engage in conduct that is unlawful, unethical or improper.

7. The Respondent has violated 59 O.S. § 858-723(C)(6), in that the Respondent did not maintain his records in accordance with 59 O.S. §858-729.

**FINAL ORDER**

**WHEREFORE**, the Board, having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets out the Final Order modifying the Recommendation of the Hearing Panel as follows:

1. Respondent Donald W. Riley shall be **SUSPENDED** for a period of **FIVE (5) YEARS** from the date that any final order is entered in this matter.

**THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.**

**IT IS SO ORDERED** this 2nd day of November, 2012.



By: Rebecca Keesee  
REBECCA KEESEE, Board Secretary

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

**CERTIFICATE OF MAILING**

I, Rebecca Keesee, hereby certify that on the 9<sup>th</sup> day of November, 2012 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 by certified mail, return receipt requested to:

**Donald W. Riley**  
P.O. Box 1643  
Chickasha, Oklahoma 73023

7006 2760 0005 6607 3236

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


**Ted Smith, Hearing Panel Member**  
P.O. Box 362  
Stillwater, OK 74076

**William Stephens, Hearing Panel Member**  
P.O. Box 871  
Pauls Valley, OK 73075

**John Travers, Hearing Panel Member**  
9028 S. Norwood Ave.  
Tulsa, OK 74137

**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

  
Rebecca Keesee