

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

In the Matter of PETER R. FULMER,)
) Complaint #15-034
Respondent.)

BOARD ORDER MODIFYING BOARD ORDER #17-021

ON THE 6th day of December, 2017, the above-numbered and entitled cause came on before the Oklahoma Real Estate Appraiser Board (“Board”) upon the filing of Respondent’s Request for Modification of Order to Allow Attendance at USPAP Course Number 600 Out of Time (“Motion”).

Respondent’s attorney of record, Patricia Podolec, appeared and advised the Board on her client’s behalf. The Board’s prosecutor, Stephen L. McCaleb was in attendance and voiced that he had no objection to the Respondent’s Motion.

JURISDICTION

1. The OREAB has the duty to carry out the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, §§858-701, *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 OREAB has promulgated rules and regulations to implement the provisions of the Oklahoma Certified Real Estate Appraisers Act in regard to disciplinary proceedings as set forth at the Oklahoma Administrative Code, §§600:15-1-1 thru 600:15-1-22, including administrative hearings.

ADOPTED FINDINGS OF FACT FROM PREVIOUS ORDER

1. The Respondent, PETER R. FULMER, is a certified residential appraiser in the State of Oklahoma, holding certificate number 12705CGA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 10, 2007.

2. In June of 2015, the Respondent admitted he was hired by homeowners Nicholas and Ashley Hughes (the "client") to complete an appraisal (the "appraisal") for a property located at 5708 Oliver Court, Oklahoma City, Oklahoma, 73142, reported by the Respondent to be legally described as Lot 9, Block 29, in Gaillardia Residential Community Section X, an addition to the City of Oklahoma City, Oklahoma County, Oklahoma. The Respondent completed and transmitted the appraisal report to the homeowners Nicholas and Ashley Hughes that intentionally misidentified PrimeLending 2300 S. Broadway, #109, Edmond, Oklahoma 73013, as the named Lender/Client at the request of the homeowners Nicholas and Ashley Hughes, without the permission, approval, knowledge, or authorization of the Grievant, Prime Lending. The Response of the Respondent Peter R. Fulmer (Exhibit 2) included his work file for the appraisal of the subject property but did not include any engagement letter from the Grievant PrimeLending, which was intentionally misidentified as the Lender/Client in the appraisal report (Exhibit 1, pages 3 to 6, 11, 13, 14, 16 to 29, and 33).

3. Further, the subject property, which appraised by the Respondent for \$1,600,000.00, was new construction. Despite the subject property being new construction, the Respondent chose not to perform the cost approach, which he deemed to not be appropriate, and failed to explain or justify why he chose not to perform the cost approach or the reason he deemed the cost approach to not be appropriate.

4. The Respondent Peter R. Fulmer certified that he complied with the Uniform Standards of Professional Appraisal Practice (USPAP) in his performance of the appraisal (Exhibit 1, page 10, #3). Further, the Respondent Peter R. Fulmer, intentionally misidentified the Lender/Client in the appraisal report to be the Grievant PrimeLending contrary to his

certification that he identified the Lender/Client in the appraisal report who is the individual, organization, or agent, for the organization that ordered and will receive the appraisal report by admitting that his client was the homeowners Nicholas and Ashley Hughes. Still further, the Respondent Peter R. Fulmer, admitted that the homeowners Nicholas and Ashley Hughes were not the agent of the Grievant PrimeLending.

5. The Respondent's analysis of the sale history of the subject property is deficient due to the to the failure to list multiple parcels (Exhibit 1, pages 5 and 6) of Lots 8 and 9, Block 29, in Gaillardia Residential Community Section X, an addition to the City of Oklahoma City, Oklahoma County, Oklahoma, which multiple parcels were purchased by the homeowners Nicholas and Ashley Hughes on May 15, 2013 (Exhibit 2, page 37; Special Warranty Deed, Book 12248, Page 1745, of the records of the Oklahoma County Clerk).

6. The intentional misidentification of the Grievant PrimeLending as the Lender/Client in the appraisal report results in a misleading appraisal report.

ADOPTED CONCLUSIONS OF LAW

1. The Respondent Peter R. Fulmer has violated 59 O.S. §858-723(C)(6) through 59 O.S. §858-726, in that the 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 1-2; 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."

MODIFIED FINAL ORDER

The Board modifies the Board Order #17-021 as follows:

1. The Respondent Peter R. Fulmer 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 Peter R. Fulmer shall successfully complete corrective education as follows: The **FIFTEEN (15) HOUR** Course Number 600: National USPAP Course. The course must be completed by February 17, 2018 with copies of the course completion certificate reflecting successful completion of the course no later than February, 28, 2018. 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.

3. Respondent Peter R. Fulmer shall be placed on **PROBATION** for a period of **ONE (1) YEAR** beginning immediately upon the date that the period of **SIXTY (60) DAYS** in which corrective education is ordered hereinabove to be completed shall end plus a period of thirty (30) days after the Respondent is notified of the final agency order either personally or by certified mail, return receipt requested. During the period of probation, Respondent Peter R. Fulmer 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, to include for review the appropriate work file of the Respondent.

4. Respondent Peter R. Fulmer shall pay costs expended by the Board for legal fees and travel costs incurred in this matter, not to exceed \$5,000. Board staff will provide a statement of the costs incurred to Respondent with the final order. Costs shall be fully paid within thirty (30) days from the date of any final order of the Board.

5. Failure by Respondent to comply with any requirement of this order shall result in his appraisal credential being suspended instanter, with notification forwarded immediately to Respondent by Certified U. S. mail, return receipt requested or by personal service.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS 30 DAYS FROM THE DATE HE IS FIRST 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 on this 6th day of December, 2017.

Eric M. Schoen

12-6-2017

ERIC SCHOEN, Administrative Officer
Real Estate Appraiser Board

Date

Bryan Neal

12/6/17

BRYAN NEAL

Assistant Attorney General

Date



CERTIFICATE OF MAILING

I, Sherry Ainsworth, hereby certify that on the 8th day of December 2017 a true and correct copy of the above and foregoing Board Order Modifying Board Order #17-021 was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

PATRICIA A. PODOLEC, ESQ.
FOSHEE & YAFFE LAW FIRM
P.O. Box 890420
Oklahoma City, OK 73189
Attorney for Peter R. Fulmer

9214 8902 0982 7500 0038 25

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


SHERRY AINSWORTH