

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

In the Matters of)	
WILLIAM D. MOWAT)	
)	
Respondent.)	Complaint #13-019, 13-026, 14-001, 14-020, 14-026,14-033

CONSENT ORDER FOR RESPONDENT WILLIAM D. MOWAT

COMES NOW the Oklahoma Real Estate Appraiser Board ("OREAB"), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent WILLIAM D. MOWAT, represented through his Counsel of Record, Daniel J. Gamino, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-700, et seq. and Oklahoma Administrative Code 600:10-1-1, et seq. All sections of this order are incorporated together.

PROCEDURAL BACKGROUND

On August 13, 2013, the OREAB entered Board Order #13-014 concerning the Respondent. In that matter, Respondent, who resides in Stillwater, Oklahoma, completed an appraisal report for a property located in the Oklahoma City metro area. As part of the OREAB's Final Order, the OREAB imposed a one-year probation in which Respondent was to submit monthly work logs for all of the work he performed. Reports contained in his log were randomly selected for review and these reports resulted in further grievances and formal complaints.

On July 9, 2014, Complaint 13-019 was heard by the Board's duly appointed hearing panel. OAC 600:15-1-6. The State presented its case in chief, then rested. Respondent presented his defense, then Respondent rested. The panel deliberated and issued its recommendation on or about July 21, 2014. (See attached Exhibit "A"). This recommendation has not yet been presented to the OREAB for adoption.

On September 8, 2014, Complaint 13-026 was heard by the Board's duly appointed hearing panel. OAC 600:15-1-6. The State presented its case in chief, then rested. Respondent, represented by Counsel, presented his defense, then Respondent rested. The panel deliberated and issued its recommendation on or about September 23, 2014. (See attached Exhibit "B"). This recommendation has not yet been presented to the OREAB for adoption.

Complaint 14-001 against Respondent was set to be heard by the Board's duly appointed hearing panel on December 1, 2014, but was continued pending settlement discussions, as well as 14-020, 14-026 and 14-023, which have not yet been forwarded to prosecution and/or set for hearing.

This Consent Order resolves all six matters: 13-019, 13-026, 14-001, 14-020, 14-026, and 14-033.

AGREED FINDINGS OF FACT IN 13-019

1. Respondent agrees that the findings of fact issued by the Board's duly appointed Hearing Panel are adopted in this Consent Order. (See Exhibit "A"). The Hearing Panel's recommendation is currently pending oral argument in front of the Board.

AGREED FINDINGS OF FACT IN 13-026

2. Respondent agrees that the findings of fact issued by the Board's duly appointed Hearing Panel are adopted in this Consent Order. (See Exhibit "B"). The Hearing Panel's recommendation is currently pending oral argument in front of the Board.

ALLEGATIONS OF FACT IN 14-001

This matter has yet to be heard by the Board's duly appointed Hearing Panel. It is the position of the State that should the matter be heard, the following findings would be proven by clear and convincing evidence:

3. In November of 2013, Arvest Mortgage Company (the "client") hired Respondent to complete an appraisal (the "appraisal") for a property located at 809 North Kimberly, Tecumseh, Oklahoma (the "subject").

4. Respondent completed the appraisal and transmitted the appraisal to the client, with an effective date of November 4, 2013. The appraisal was for a purchase transaction.

5. 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 in paragraphs 6-23.

Neighborhood Section

6. Respondent failed to report several negative factors in the Tecumseh area, that are unique to Tecumseh, which may affect marketability. These include that Tecumseh has no full food store, and no hospital. Further, employment, retail, and other services are very limited.

7. Respondent failed to report of the close proximity to Highways 177 and 9, creating an above average noise level.

Description of Improvements

8. Respondent reports in his sales comparison approach that the subject has an attached garage when in fact the available data sources report that there is a one car detached garage.

9. Respondent failed to explain why a fifty three (53) year old house has an effective age of twenty four (24) years.

10. Respondent failed to report and analyze that the subject had two rear decks.

11. Respondent failed to report and analyze that the subject had a mock fireplace.

Cost Approach

12. Respondent reports that the site value is based on "actual closed sales of vacant sites..." but does not provide any summary of these purported closed sales.

13. Respondent's work file did not contain any actual closed sales of vacant sites.

Sales Comparison Approach

14. Respondent ignored more comparable properties, that sold within one (1) year of the report, to the subject in his sales comparison approach.

15. This includes two (2) properties that sold in March of 2013 and August of 2013 that were more similar in size to the subject than comparables two, three, and four in Respondent's report. The sale most similar in size to the subject property is on the same street as the subject but was not reported nor used.

16. Respondent's comparable two (2) is located in an area nearby the subject, but in an area that mainly consists of rental properties.

17. Respondent's comparable four (4) was from a superior area with newer homes.

18. In Respondent's sales comparison grid he reports that the grid adjustments are based on percentage of depreciation of the comparables, which is not a recognized method.

19. Respondent failed to report that comparable one was a real estate owned (REO) property.

20. Respondent failed to explain his lack of age adjustments to the comparables.

21. Respondent's failure to use or analyze a recent sale on the subject street, along with the failure to utilize sales more similar in size to the subject property, indicates a problem with the data utilized by Respondent.

Contract Section

22. In the contract section of the report, Respondent reports that the seller was not paying any of the buyers closing costs. However, the contract indicates that the seller was to pay an amount not to exceed \$4,500 of buyers' prepaid items and closing costs.

23. Respondent incorrectly reports that comparables one, two, and three had no seller's concessions.

ALLEGATIONS OF FACT IN 14-020

This matter has yet to be heard by the Board's duly appointed Hearing Panel. It is the position of the State that should the matter be heard, the following findings would be proven by clear and convincing evidence:

24. In April of 2014, First National Bank and Trust (the "client") hired Respondent to complete an appraisal (the "appraisal") for a property located at 708 Madeline Drive, Shawnee, Oklahoma (the "subject").

25. Respondent completed the appraisal and transmitted the appraisal to the client, with an effective date of April 29, 2014. The appraisal was for a refinance transaction.

26. 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 in paragraphs 27-34.

Neighborhood Section

27. In the neighborhood section, Respondent failed to report that the Shawnee Golf & Country Club is located across Bryan Road, East of the Subject Location; an apartment complex is located within one block to the West; Bryan Road is a four lane, high traffic street which has

experienced an increase in traffic over the last five years; and a large mini storage facility is located to the South of the Subject Location.

Improvements Section

28. In the improvements section, there are minimal comments regarding the support of the indicated effective age of 18 years. Respondent reports no updates to the 34 year old dwelling. No comments were found regarding the age of the heat/air system, roof cover or appliances.

Cost Approach

29. The source of cost data is shown to be the Marshall & Swift Cost Service. The cost indicators for the reported "average" cost do not appear to be taken from the indicated source. Average cost base is \$94.23 for this size of dwelling. The cost factors have been rounded off to even dollar amounts which is not typical when the calculations are taken from the indicated source. Depreciation is based on an effective age of 18 years which is not supported by commentary.

30. Respondent reports that the site value is based on "actual closed sales of vacant sites..." but does not provide any summary of these purported closed sales.

31. Respondent's work file did not contain any actual closed sales of vacant sites.

Sales Comparison Approach

32. Respondent reports that he utilized MLS as a data source. MLS data and photos indicate that Sale #2 has carpet that is less than 1 year old. Sale #3 has new heat and air as well as a remodeled bath and a storm cellar. Sale #1 is reported to have a fireplace which Respondent did not report. No adjustments are taken for differences in condition. Subject has an effective age of 18 years which would usually support an adjustment for condition.

33. The subject dwelling has vinyl flooring while the sales have carpet. Respondent failed to adjust or analyze this.

34. Sales #1 and #2 are located in the Larkins Meadow edition, which has a stronger buyer appeal than the subject location.

AGREED CONCLUSIONS OF LAW IN COMPLAINT 13-019

Respondent agrees that the conclusions of law issued by the Board's duly appointed hearing panel are adopted in this Consent Order. (See Exhibit "A"). The Hearing Panel's recommendation is currently pending oral argument in front of the Board.

AGREED CONCLUSIONS OF LAW IN COMPLAINT 13-026

Respondent agrees that the conclusions of law issued by the Board's duly appointed hearing panel are adopted in this Consent Order. (See Exhibit "B"). The Hearing Panel's recommendation is currently pending oral argument in front of the Board.

ALLEGATIONS OF LAW IN COMPLAINT 14-001 AND 14-020

These matters have yet to be heard by the Board's duly appointed Hearing Panel. It is the position of the State that should these matters be heard, the following conclusions would be proven by clear and convincing evidence:

1. That 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 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 or incompetence 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)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

5. 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 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."

6. That 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."

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, and
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 him 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 his professional practice of real estate appraising in the State of Oklahoma.
5. 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.
6. Respondent acknowledges that two additional cases, 14-026 and 14-033, are currently pending, and that similar violations would be proven should those matters continue through the disciplinary process.
7. 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 and that:

1. Respondent shall complete all qualifying education otherwise known as the "core curriculum" which totals 200 hours of education, as currently required of an appraiser applicant for the Certified Residential appraiser credential under the Appraiser Qualification Criteria, within a twelve (12) month period. Respondent would need to keep the Board's staff apprised, via written communication, of his progress on a monthly basis ^(cum) on the first day of each month and must complete half of the hours within the first six months after the Board approves the Consent Order;
2. Respondent is placed on probation for a period of thirty (30) months from the date this Consent Order is approved by the Board. During the period of probation, which will commence six (6) months after this Consent Order is approved by the Board, Respondent 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 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; and

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 ordered to show cause for his failure to comply which could result in additional penalties.

RESPONDENT:

William D. Mowat
WILLIAM D. MOWAT

12/03/2014
DATE

Daniel J. Gamino
DANIEL J. GAMINO,
Counsel for Respondent

12-2-2014
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 McCaleb
STEPHEN MCCALED, OBA #15649
Board Prosectuor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

12-9-14
DATE

IT IS SO ORDERED on this 9th day of December, 2014.



Eric M. Schoen

ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board

OKLAHOMA REAL ESTATE
APPRAISER BOARD

By: *Bryan Neal*

BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I, Ashley Snider, hereby certify that a true and correct copy of the above and foregoing Consent Order for Respondent William D. Mowat was mailed postage prepaid by certified mail with return receipt requested on this 11 day of December, 2014 to:

Daniel J. Gamino
GAMINO & ASSOCIATES, P.C.
James Town Office Park, North Building
3035 N.W. 63rd Street, Suite 214
Oklahoma City, OK 73116

7013 2250 000 5046 1929

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



ASHLEY SNIDER

PRELIMINARY MATTERS

The Board's prosecutor initially moved for the admission of ten (10) exhibits for the Board (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, respectively) to which there was no objection and all ten such Board exhibits were admitted into evidence.

Exhibit 1 was the previous Board Decision as to Disciplinary Hearing Panel Recommendation in Case #12-050 involving the Respondent dated August 7, 2013, Exhibit 2 was the subject appraisal report on 2804 SE 45th Street, Oklahoma City, Oklahoma 73129 (Property 1) dated August 23, 2013 (attached hereto), Exhibit 3 was the multi-listing service (MLS) data sheets for the Respondent's subject Property 1 and related comparable sales (also known as "comparables") produced by the reviewing appraiser Stephen E. Meyer (attached hereto), Exhibit 4 was the data from Oklahoma County for the Respondent's subject Property 1, and Exhibit 5 was the Respondent's work file for 2804 SE 45th Street, Oklahoma City, Oklahoma 73129 (Property 1).

Exhibit 6 was the subject appraisal report on 3027 SW 17th Street, Oklahoma City, Oklahoma 73108 (Property 2) dated August 19, 2013 (attached hereto), Exhibit 7 was the MLS data sheets and the Oklahoma County Assessor data sheets for the Respondent's subject Property 2, Exhibit 8 was additional data from Oklahoma County for the Respondent's subject Property 2, Exhibit 9 was the Respondent's work file for 3027 SW 17th Street, Oklahoma City, Oklahoma 73108 (Property 2), and Exhibit 10 was the Respondent's two (2) page Letter Response to the Grievance filed in this matter as to 3027 SW 17th Street, Oklahoma City, Oklahoma 73108 (Property 2)(attached hereto).

Subsequently during the Hearing, Mr. McCaleb moved for the admission of one (1) more exhibits, Exhibit 11, respectively, to which there was no objection. The eleventh exhibit, Exhibit 11, was an Oklahoma City zoning map for the Respondent's subject Property 1 from the

Association of Central Oklahoma Governments (ACOG), Zoning Online Locator, a free, on-line service. The Respondent did not submit any documents for admission as evidence in this matter.

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.

WITNESSES AND EVIDENCE PRESENTED

The Board's prosecutor presented two (2) witnesses in support of the case against the Respondent: Christine McEntire, the Board's Director; and, Stephen E. Meyer, a certified residential appraiser licensed as 10194CRA, of Oklahoma City, Oklahoma.

Christine McEntire Testimony

Upon being duly sworn, Ms. McEntire testified that she has worked for the Board for seven years, four of which were as the Board's Legal Secretary and more recently she has been the Board's Director for the past three years. Ms. McEntire identified the Board's Exhibit 1 as the Board's Decision as to the Disciplinary Hearing Panel Recommendation in Case #12-050 involving the Respondent with the Board adopting the recommendation of the then-seated hearing panel on August 7, 2013, to impose discipline, in part, through a one (1) year Probation. According to Ms. McEntire, as part of the one year Probation which began on the date of the Board's Decision (August 7, 2013), the Respondent was required to submit his work logs to the Board on a monthly basis which submissions he has made and that two of his reports from August 2013 were pulled for review by a member of the Board's Standards and Disciplinary Procedures Committee. Further, according to Ms. McEntire, the Respondent has successfully completed one of the two corrective education courses he is required to complete during his one (1) year probation, that being the course on Basic Appraisal Procedures, Course No. 602, and, with about a month left on his probation period, the Respondent has not submitted a certificate that he has completed Course No. 601, Basic

Appraisal Principles as required. Ms. McEntire testified that no motion for a continuance of this matter was filed by the Respondent.

Stephen E. Meyer Testimony

Upon being duly sworn, Mr. Meyer testified that he is a certified residential appraiser, that he has been appraising real property for about 33 years, that he performs review appraisals, that review appraisals are performed for quality control purposes, that he is a member of the Board's Standards and Disciplinary Procedures Committee, and that he appraises in the Oklahoma City metropolitan area.

Mr. Meyer testified that, as a member of the Board's Standards and Disciplinary Procedures Committee, he received two of the Respondent's reports from the Board to review, one for the property located at 2804 SE 45th Street, Oklahoma City, Oklahoma 73129, that he identified as Exhibit 2 and the second for the property located at 3027 SW 17th Street, Oklahoma City, Oklahoma 73108, that he identified as Exhibit 6, and that in his opinion neither of the two reports passed USPAP muster.

In connection with his reviews, Mr. Meyer stated that he first verifies all factual data in a report and then verifies all information on the reported comparable sales. Continuing, Mr. Meyer identified Exhibit 2 as the subject appraisal report on 2804 SE 45th Street, Oklahoma City, Oklahoma 73129 (Property 1) dated August 23, 2013, that he reviewed, that it was a refinance transaction according to the Respondent on page 3 of Exhibit 2, and that the report was an "exterior-only" inspection report that requires you to make massive assumptions about the subject as an appraiser does not view the subject property's interior.

In reference to the report on 2804 SE 45th Street, Oklahoma City, Oklahoma 73129 (Exhibit 2) as to the "Neighborhood" on page 3, Stephen E. Meyer noted that the description of

the neighborhood boundaries as being "Southeast Oklahoma City and its subdivisions" is not good as Southeast Oklahoma City has many different subdivisions, Southeast Oklahoma City is part of the largest city in the State and it is not a sufficient description. Continuing in Exhibit 2 as to the "Neighborhood", Mr. Meyer also noted that the Respondent's report on page 3 under "One-Unit Housing" lists the predominant value as being \$120,000, the low value as being \$100,000 and the high value as being \$165,000 while on page 4 of the same report (Exhibit 2), the Respondent's Comparable Sales values are Sale 1 at \$60,000, Sale 2 at \$55,000 and Sale 3 at \$55,000.

In reference to the "Site" section on page 3 of the report in Exhibit 2, Mr. Meyer noted that the Respondent reported the zoning classification as being "R-1", that such zoning classification is not correct based upon the Oklahoma City zoning map for the Respondent's subject Property 1 from the Association of Central Oklahoma Governments (ACOG), Zoning Online Locator, a free, on-line service, a copy of which map covering the subject property's area was identified as being Exhibit 11 which lists the zoning classification as being "R-2".

In reference to the "Improvements" section on page 3 of Exhibit 2, Mr. Meyer stated that the Respondent's Data Sources are listed to be "MLS-Owner" for multi-list service (MLS) data sheets and the property's Owner, that in his grids on page 4 of the report (Exhibit 2) the Respondent reports the subject Property 1 to have two (2) bathrooms. The report, according to Mr. Meyer, conflicts with the MLS data sheet for the subject Property 1 identified in Exhibit 3, page 1, the multi-listing service (MLS) data sheet for the Respondent's subject Property 1 produced by Stephen E. Meyer that lists the existence of only one (1) bathroom. Continuing, Mr. Meyer noted that looking at the Market Data Center (now CoreLogic) database, he located information from three (3) previous appraisals in Exhibit 3, page 9, that all say that the subject

Property 1 has only one (1) bathroom and that all three of those previous appraisers each actually entered the house at 2804 SE 45th Street, Oklahoma City, Oklahoma 73129. Further, Mr. Meyer stated that the information at Exhibit 3, page 9, indicates that the garage for the subject Property 1 was converted into living area, which information he verified through the Oklahoma County Assessor's website at Exhibit 4, page 9, that says that the living area includes the garage, and that none of the Respondent's comparable sales had converted garages so as to erroneously indicate that converted garages must not be prevalent in the neighborhood.

In reference to the "Cost Approach" section of the report (Exhibit 2, page 5), Mr. Meyer testified that he does not think that you can do a proper cost approach on a "drive-by" inspection report, that the reported Site value of \$15,000 (or 26%) of the subject Property 1's value seems high and not realistic in light of the property Mr. Meyer found at 2812 SE 29th, Oklahoma City, Oklahoma 73129, that he identified as Exhibit 3, page 8, that has a 7,000 square foot lot that sold for \$3,000.

In reference to the Respondent's comparable sales in his grids in the report (Exhibit 2, page 4), Stephen E. Meyer noted that while the Respondent reported that all three (3) comparable financings were the same (i.e. no sale or financing and conventional concessions), that according to the MLS data sheets at Exhibit 3, Sale 1 (page 2) was an FHA insured mortgage transaction while Sales 2 (page 3 Oklahoma County Assessor detail sheet) and 3 (page 5) were both cash transactions, that the Respondent had access to the same MLS data sheets on Sales 1 and 3, and that the Respondent did not look at the concessions and sales.

In reference to the Respondent's Final Estimate of Value at page 4 of Exhibit 2, Mr. Meyer testified that such final value estimate of \$57,500 (Exhibit 2, page 12) was not supported by the Respondent's Cost Approach which would be \$81,000 plus.

Mr. Meyer said that his conclusion on the Respondent's report on subject Property 1 (Exhibit 2) is that it is a misleading report.

The second report prepared by the Respondent for his client Bank of Oklahoma was for an appraisal on the property located at 3027 SW 17th Street, Oklahoma City, Oklahoma 73108 (Property 2) dated August 19, 2013, was an "exterior-only" inspection, and was identified by Mr. Meyer as being Exhibit 6.

In reference to the "Neighborhood" section of the second report (Exhibit 6, page 3), Mr. Meyer testified that the "Neighborhood Boundaries" description was identical to that of the Respondent's first report (Exhibit 2, page 3) even down to the same typographical error in the Respondent's second report, that the subject Property 2 is not located in Southeast Oklahoma City as the Respondent reported but rather its located in Southwest Oklahoma City, that the boundaries are too general a description, that the neighborhood boundaries should be described as being bounded by "Southwest 15th Street on the north, Pennsylvania on the east, Southwest 29th on the south and by I-44 on the west", and that the Respondent's second report (Exhibit 6) appears to be a "clone" of the Respondent's first report (Exhibit 2).

In reference to the "Site" section of the second report (Exhibit 6, page 3), Mr. Meyer noted that the Respondent did not analyze the proximity of subject Property 2 to I-44 and the related traffic noise issues, that the Association of Central Oklahoma Governments ("ACOG") website has traffic counts, and that the ACOG traffic counts show that the traffic (as of 2010) is 108,100 cars per day indicating a great deal of noise.

In reference to the "Improvements" section of the second report (Exhibit 6, page 3), Mr. Meyer noted that the Respondent did not qualify his report as being for "exterior-only".

In reference to the "Sales Comparison Analysis" in the second report (Exhibit 6, page 4), Mr. Meyer noted that the Respondent made a site adjustment for comparables two (2) and three (3) of plus \$4,000 each with no explanation or support for these adjustments, and that the mileages listed as the proximity to the subject for the comparables were not correct.

As to the "Cost Approach" section in Exhibit 6, page 5, Mr. Meyer stated that the Respondent's site value opinion of \$10,000 is not supported in the report. Mr. Meyer identified Exhibit 7 as the MLS data sheets and Oklahoma County Assessor data sheets for the Respondent's subject Property 2, that Mr. Meyer found some other land sales at Exhibit 7, page 7 for a property at 2840 SW 39th Street, Oklahoma City, Oklahoma 73119 with a land value of \$5,775 and another one at Exhibit 7, page 8 for a property at 3604 S. Roff Avenue, Oklahoma City, Oklahoma 73119 with a land value of \$7,000, and that the Respondent's second report as to subject Property 2 depreciation (Exhibit 6, page 5) of thirty percent (30%) had no support or explanation in the second report.

As to the Respondent's second report (Exhibit 6, page 7) Location Map Addendum, Mr. Meyer stated that the Respondent's map was wrong, that the Respondent's Comparable Sale 3 was actually located north of I-40, that the location map provided by Mr. Meyer in Exhibit 7, page 3 has the proper location of each of the respondent's comparable sales. Continuing, Mr. Meyer noted that in the Respondent's second report (Exhibit 6, page 3), the Respondent's comparable sales 2 and 3 are located in neighborhoods that are far superior to that of the subject Property 2.

Stephen E. Meyer stated that as to the Respondent's second report (Exhibit 6), that the mileage listed on page 4 was not correct, that the Respondent's square footage adjustment

description in the "Additional Comments" section, paragraph 3, on page 5 is unfamiliar to Mr. Meyer, that the Respondent's \$1,000 adjustments for the room count was not explained.

In conclusion, Mr. Meyer stated that the property improvements (Exhibit 2) were too high for that property, that it was "over-improved", that neither report was professionally written, that the reports were not credible and that the reports both violate USPAP. At this point the State rested.

William D. Mowat Testimony

The Respondent, William D. Mowat, upon being duly sworn, testified that he had spoken to an Attorney but that she could not be there the day of the hearing which is the reason he was not represented by legal counsel. Continuing, the Respondent said that while he had wanted a continuance of his case, he admitted that he had not filed any motion for a continuance. Both the Board's prosecutor and the Board's Counsel advised the Respondent at that time that the Board's rules require a written motion for a continuance be filed not less than ten days in advance of any scheduled hearing in order to be considered.

The Respondent testified that the Board's witness, Stephen E. Meyer, did the reviews in his previous disciplinary case (Exhibit 1, Complaint # 12-050), that he thinks it's a conflict for Mr. Meyer to testify as he was involved in the previous disciplinary case and that the State should have picked someone else from the committee (i.e. Standards and Disciplinary Procedures Committee) to do reviews rather than Mr. Meyer.

Continuing, Mr. Mowat testified that he has done reports for Bank of Oklahoma for twelve years, that he has never been questioned before by his client the Bank of Oklahoma, that these reports are for small loans for things like fences, etc. and that these appraisals go into the Bank's files and nobody cares about them, other than the value. Mr. Mowat admitted that his

reports should conform to the Uniform Standards of Professional Appraisal Practice (USPAP). As a general comment, the Respondent noted that he has changed the way he does things in the ten months since the imposition of his probation and that everything now is a lot more thorough.

In reference to his report on subject Property 1 (Exhibit 2, page 3, "Neighborhood – Neighborhood Boundaries"), the Respondent indicated that his report was not a Universal Appraisal Data set (UAD) report and that his report does not have to meet UAD guidelines. The Respondent testified that he believes that his Neighborhood description (Exhibit 2, page 3) is okay as he's used it for years for this purpose.

In reference to his report on subject Property 1 (Exhibit 2, page 3) as to the zoning classification, the Respondent admitted, based upon the Online Zoning Locator sheet for 2804 SE 45th Street identified by the Board's witness, Stephen E. Meyer (Exhibit 11), that he was half a street off on the zoning map as his eyesight was not the best.

Referring to his report on subject Property 1 (Exhibit 2, page 3, as to "Improvements"), the Respondent testified that he talks to the owners of the properties he appraises as the bank has given him the leniency to do so to gather information, that these loans are "low equity" loans and that the bank orders the appraisals to be exterior-only or "drive-by".

As to his work file (Exhibit 5), the Respondent noted that a lot of county assessor records are wrong and admitted that he had he had no support for his site value of the subject Property 1 (Exhibit 2, page 5) in his work file.

The Respondent admitted that these two reports (Exhibits 2 and 6) are not the best while his value opinions in both reports are still good.

In reference to his report on subject Property 2 at 3027 SW 17th Street, Oklahoma City (Exhibit 6, page 3, "Neighborhood – Neighborhood Boundaries"), the Respondent admitted that

the boundaries should have been in in Southwest Oklahoma City. Mr. Mowat went on to indicate that as to his Comparable Sale 3, he put (located) it where his software put it by putting it right on the map and that he did not check it afterwards.

The Respondent, who resides in Stillwater, Oklahoma, stated that he feels that he is geographically competent to do these reports as he has been over here in Oklahoma City doing reports for one and a half to two years. As to Mr. Meyer's searches for comparable sales, the Respondent opined that three appraisers can come up with three answers, and that one sale does not define a market whether I had any or not (in his work file).

Referring to his second report (Exhibit 6, page 5) as to the Cost Approach, the Respondent noted that he used sixty years as remaining economic life in the depreciation line as the subject Property 2 had already used eighteen years effective life and that you divide by 60 to get the effective age. Continuing, the Respondent testified that Bank of Oklahoma requires him to fill out the Cost Approach, that the bank wants "drive-bys", and that he has warned the Bank of Oklahoma for years about the problems with "drive-bys" for years.

In answer to a question from a member of the Hearing Panel as to the meaning of the unfamiliar abbreviation "OSP" in his grids in his reports for the subject Properties 1 and 2 (Exhibits 2 and 6, page 4), the Respondent replied that "OSP" means "off street parking".

Responding to another hearing panel member question, the Respondent stated that as to his second report (Exhibit 6), he did call the Owner to verify the information, but he admitted that he did not disclose such phone call.

The Respondent stated with regard to the "Improvements" section in his first report (Exhibit 2, page 3), that his determination of an "effective age" of 18 years, that he does it like anyone else, its just his opinion, and just an opinion is all it is.

The Respondent stated as to his first report (Exhibit 2), that the problem with the Cost Approach is depreciation, that the way he calculates sales adjustments- that nobody teaches this, he's been to classes for twenty years and no one teaches how to do it, that he learned it from someone else, and that no one teaches how to quantify what weight to give site value. Further, the Respondent said that he could not find any comparable sales with converted garages in Southeast Oklahoma City, Oklahoma, to which Hearing panel Member Scott Goforth said that converted garages are everywhere in both Southeast and Southwest Oklahoma City, Oklahoma.

The Respondent admitted that that he did not disclose that he checked with the Owner on either report as to whether either owner had anything to say about the physical characteristics of their property.

The Respondent admitted that in his second report (Exhibit 6) that he listed no support for his site value and that he doesn't remember how he came up with that adjustment.

In his closing, the Respondent said that he has done this [appraising] for 22 years, that his reports were not intentionally misleading, that his work was not scrutinized until these two reports were. At this point, the Respondent rested.

The Respondent presented no witnesses in his defense and at no time introduced any exhibits into evidence on his own behalf.

COMES NOW the Oklahoma Real Estate Appraiser Board Disciplinary Hearing Panel being duly appointed in this matter as aforesaid hereinabove, after having received all evidence and being fully advised in the premises as to the above matter, and recommends that the Board find by clear and convincing evidence as follows, and make the following disciplinary recommendations as set forth at OAC 600: 15-1-14, to wit:

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.

3. The Respondent, WILLIAM D. MOWAT, is a State Certified Residential Appraiser in the State of Oklahoma, holding certificate number 11022CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on August 10, 1993.

FINDINGS OF FACT

It is the finding of the Disciplinary Hearing Panel that the following facts were proven by clear and convincing evidence as follows:

1. The Respondent, WILLIAM D. MOWAT, is a State Certified Residential Appraiser in the State of Oklahoma, holding certificate number 11022CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on August 10, 1993.

2. The complaint contains two (2) separate reports completed by the Respondent. Both reports contain information submitted by the Respondent which resulted in two misleading reports.

2804 SE 45th Street, Oklahoma City, Oklahoma

3. In August of 2013, Bank of Oklahoma (the "client"), hired Respondent to complete an appraisal (the "appraisal") for a property located at 2804 SE 45th Street, Oklahoma City, Oklahoma (the "subject" or "subject Property 1").

4. Respondent completed the appraisal and submitted the appraisal to the client, with an effective date of August 23, 2013. The appraisal was for a refinance transaction. The report was completed as an exterior only inspection.

5. Respondent committed a series of errors in the report which led to a misleading report. These errors include, but not limited to, the following paragraphs 6 – 19.

The Neighborhood Section

6. The neighborhood boundaries are unclear and read as, "NEIGHBORHOOD CONSISTS OF SOUTHEAST OKLAHOMA CITY, OKLAHOMA AND ITS SUBDIVISIONS (sic)." The stated price range of \$100,000 to \$165,000 with a predominant value of \$120,000 is not correct. The comparables in the report sold for \$60,000, \$55,000, and \$55,000. The Respondent's value opinion is \$57,500. The indicated range of values of the comparables, the opinion of value for the subject, and the price range of the subject neighborhood are confusing and misleading.

Site/Highest & Best Use

7. The Respondent reports the zoning to be R-1, Single Family. The correct zoning is R-2, Medium Low Density Residential according to the Online Zoning Locator provided by the Association of Central Oklahoma Governments ("ACOG") and presented by the Board's witness, Mr. Stephen E. Meyer as Exhibit 11.

Description of Improvements

8. Respondent failed to disclose or explain that the property had a functional obsolescence issue. The subject's garage has been converted to living area. The subject has no other apparent automobile storage available. None of the comparables reported by the Respondent had converted garages. No explanation or analysis was provided.

9. The Respondent shows the subject with two bathrooms. A search of the Market Data Center (now known as CoreLogic) shows that it was appraised in 1990 and 2000 and only had one bathroom. The subject's MLS #124580 listing from June 14, 2002, when it was purchased, shows that it had a converted garage. Respondent provides no explanation in his report.

Cost Approach

10. The Respondent uses the cost approach, but did not perform an on-site inspection. Estimating appreciation from a front view of the subject property from the street is misleading, especially when it is not qualified in writing. Also, the Respondent gives no support for land value, he simply states the method used. The Respondent has a value opinion of the site of \$15,000 to which he provides no support.

Sales Comparison Approach

11. The Respondent reports that all comparable sales sold with conventional financing. Comparable 1 sold on an FHA insured mortgage and comparables 2 and 3 sold for cash according to the testimony provided by the Board's witness, Stephen E. Meyer and supported by the documents in Exhibit 3.

12. The Respondent failed to use recognized methods to determine living area adjustments or additional feature adjustments. Further, the Respondent did not use any comparable sales with converted garages.

Final Reconciliation

13. The Respondent states that the sales comparison approach (\$57,500) is supported by the cost approach (\$86,031). A cost approach more than 30% higher than a sales comparison

approach is not supported. A cost approach cannot be properly completed when an on-site inspection is not performed.

14. The many errors and omissions in this report greatly reduce its credibility. The Respondent has demonstrated a lack of understanding of the appraisal process.

3027 SW 17th Street, Oklahoma City, Oklahoma

15. In August of 2013, Bank of Oklahoma (the "client 2"), hired the Respondent to complete an appraisal (the "appraisal 2" or "second report") for a property located at 3027 SW 17th Street, Oklahoma City, Oklahoma (the "subject 2" or "subject Property 2").

16. Respondent completed the appraisal 2 and transmitted the appraisal 2 to the client 2, with an effective date of August 19, 2013. The appraisal 2 was for a refinance transaction. The report was completed as an exterior-only inspection.

17. The Respondent committed a series of errors in the report which led to a misleading report. These errors include, but are not limited to, the following in paragraphs 18 – 35.

The Neighborhood Section

18. The neighborhood boundaries reported by the Respondent are unclear and inadequate and read as, "NEIGHBORHOOD CONSISTS OF SOUTHEAST OKLAHOMA CITY, OKLAHOMA AND ITS SUBDIVITIONS (sic)." The Respondent failed to distinguish or explain the neighborhood boundaries.

19. The Respondent reports that the neighborhood is in southeast Oklahoma City, when it is in southwest Oklahoma City.

Site/Highest & Best Use

20. The subject 2 abuts Interstate 44, with a large berm that shields the view. The Association of Central Oklahoma Governments ("ACOG") traffic counts show that the traffic (as of 2010) is 108,100 cars per day according to Stephen E. Meyer. However, the Respondent's report (Exhibit 6, page 3) stated that there were no noise factors.

Description of Improvements

21. The Respondent performed an exterior-only (drive-by) report and failed to qualify the condition description. The Respondent reports that the condition of the subject 2 property dictates that no repairs are needed, but does not report in this report that he did not inspect the interior.

Cost Approach

22. The Respondent failed to explain how he derived his site value of \$10,000, to which he provides no support.

23. The Respondent fails to explain his depreciation in his cost approach in light of the fact that he did not do an interior inspection.

Sales Comparison Approach

24. The Respondent's choices of comparable sales compromise the credibility of the report.

25. The subject 2 property and comparable one (1) are located within the same square mile. According to the Board's witness, Stephen E. Meyer, the median sale price in the subject 2 area in the year preceding the effective date of the report was \$33,500; the median price per square foot in this area in the year preceding the effective date of the report was \$29.42.

26. According to the Board's witness, Stephen E. Meyer, the median sale price for comparable two's (2) one square mile area the year preceding the effective date of the report was

\$77,150; the median price per square foot in this area in the year preceding the effective date of the report was \$70.99.

27. According to the Board's witness, Stephen E. Meyer, the median sale price for comparable three's (3) one square area the year preceding the effective date of the report was \$104,000; the median price per square foot in this area in the year preceding the effective date of the report was \$73.12.

28. Based on the preceding, comparables two (2) and three (3) are located in superior neighborhoods, while the Respondent failed to explain or justify their inclusion as comparables.

29. The Respondent failed to analyze and/or explain the noise influence of the subject 2 property and the absence of the noise influence for comparable one (1). Further, the Respondent failed to provide any discussion or analysis of any locational influences.

30. The Respondent made a site adjustment for comparables two (2) and three (3) of +\$4,000 each. The Respondent did not explain or support these adjustments.

31. The Respondent incorrectly reports that comparable three (3) is .15 miles northeast of the subject 2 property; it is actually 2.8 miles northeast of the subject 2 property.

32. The Respondent's explanation of square footage adjustments (found on page 3 of his report (Exhibit 6, page 3)) is not a recognized method.

33. Respondent's explanation of his adjustments for additional features is also not a recognized method.

34. Respondent failed to explain his \$1,000 adjustment in the room count portion of the sales comparison grid.

35. The subject 2 property appears to be an over improvement for the subject 2 area; Respondent failed to articulate and analyze this in his report.

CONCLUSIONS OF LAW

It is the finding of the Disciplinary Hearing Panel that such conduct by the Respondent is in violation of:

1. The Respondent 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 1-1, 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. 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."

3. 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."

4. 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."

5. 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."

RECOMMENDED DISCIPLINE

WHEREFORE, it is the recommendation of the Disciplinary Hearing Panel after considering all the testimony and evidence presented, that:

1. Respondent William D. Mowat shall be placed on **PROBATION** for a period of **ONE (1) YEAR** from the date that of any final order issued by the Board. During the period of probation, Respondent William D. Mowat 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.

2. The Respondent William D. Mowat 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).

3. Respondent William D. Mowat, during the period of probation, shall successfully complete corrective education as follows:

- The **FIFTEEN (15) HOUR** Course Number 600: National USPSP Course
- The **FIFTEEN (15) HOUR** Course Number 611: Residential Market Analysis and HBU
- The **FIFTEEN (15) HOUR** Course Number 614: Residential Report Writing and Case Studies

The course(s) must all be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of the Board Order. The course(s) must be tested and must be live courses, attended in person by the Respondent (not distance and/or correspondence and/or on-line courses). The course(s) shall not be counted toward continuing education credit by the Respondent.

4. Respondent William D. Mowat shall pay 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).

5. Respondent William D. Mowat shall supervise no trainee appraiser(s) during the period of his probation.

6. Failure by Respondent 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 U. S. mail, return receipt requested.

WITNESS our hands this 21st day of July, 2014.

OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL

By:

Patti L. Fisher
PATTI L. FISHER
Disciplinary Panel Chairman

By:

DONALD HENDERSON
Disciplinary Panel Member

By:

SCOTT GOFORTH
Disciplinary Panel Member

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OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL

By: _____
PATTI L. FISHER
Disciplinary Panel Chairman

By: Donald L. Henderson
DONALD HENDERSON
Disciplinary Panel Member

By: _____
SCOTT GOFORTH
Disciplinary Panel Member

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OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL

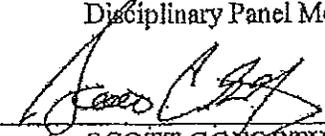
By:

PATTI L. FISHER
Disciplinary Panel Chairman

By:

DONALD HENDERSON
Disciplinary Panel Member

By:



SCOTT GORBORTH
Disciplinary Panel Member

CERTIFICATE OF MAILING

I, Ashley Snider, hereby certify that on the 25 day of July, 2014 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:

William D. Mowat
P.O. Box 2116
Stillwater, OK 74076

7013 2250 0000 5046 0786

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

Scott Goforth, Hearing Panel Member
3705 West Memorial Road, Suite 306
Oklahoma City, Oklahoma 73134

Donald Henderson, Hearing Panel Member
2420 North 12th Street
Broken Arrow, Oklahoma 74012

Patti Fisher, Hearing Panel Member
POBox645
Shawnee, Oklahoma 74802

Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 Lincoln Blvd
Oklahoma City, Oklahoma 73105

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, OK 73105


ASHLEY SNIDER

of the Hearing through his Attorney.

PRELIMINARY MATTERS

The Board's prosecutor initially moved for the admission of six (6) exhibits for the Board (Exhibits 1, 2, 3, 4, 5, and 6, respectively) to which there was no objection and all six such Board exhibits were admitted into evidence.

Exhibit 1 was the previous Board Decision as to Disciplinary Hearing Panel Recommendation in Case #12-050 involving the Respondent dated August 7, 2013, Exhibit 2 was the subject appraisal report on 2930 N. Birch Street, McAlester, Oklahoma 74501 (Property 1) dated September 6, 2013 (attached hereto), Exhibit 3 was the subject appraisal report on 4208 Rosetree Lane, Enid, Oklahoma 73703 (Property 2) dated September 25, 2013 (attached hereto), Exhibit 4 was the Respondent's three (3) page Letter Response to the Grievance filed in this matter as to the subject appraisal report on 2930 N. Birch Street, McAlester, Oklahoma 74501 (Property 1) and on the subject appraisal report on 4208 Rosetree Lane, Enid, Oklahoma 73703 (Property 2), (attached hereto), Exhibit 5 was the Respondent's work file for 2930 N. Birch Street, McAlester, Oklahoma 74501 (Property 1), and Exhibit 6 was the Respondent's work file for 4208 Rosetree Lane, Enid, Oklahoma 73703 (Property 2).

As a preliminary matter, the Respondent requested that his prior two motions, the responses to those motions and the subsequent orders entered in this matter by the Board's Hearing Officer Counsel Bryan Neal all be included in the record to which request there was no objection. The first of these two motions was a Motion for Continuance filed herein on July 18, 2014, which motion was heretofore granted through an Order Granting Respondent's Request for a Continuance issued by the Hearing Officer Counsel Bryan Neal on July 28, 2014, followed by a Notice of Continued Disciplinary Hearing issued by the Board's Director on July 29, 2014, to continue the Hearing in

this matter from its initial scheduled date of July 30, 2014, to September 8, 2014.

The second motion was entitled "Respondent's [Motion] to Dismiss based on Doctrine of Laches,, filed herein on July 18, 2014, alleging among other things that the Board Staff delayed the prosecution in this matter for some 18 months so as to substantially prejudice the Respondent in defending his professional license. The Board's prosecutor filed a pleading in response entitled "The Oklahoma Real Estate Appraiser Board's Response to Respondent's Motion to Dismiss Based on Doctrine of Laches,, herein on August 21, 2014, denying each of the Respondent's allegations by documenting the administrative procedural history of this administrative law case including dates that notices were given to the Respondent informing him of the pending hearing in this matter, noting that the procedural history herein established that the Board Staff acted diligently in processing this matter and further noting that the Respondent cited only civil law cases as authority and cited no administrative law cases in support of his position.

On August 28, 2014, the Board's Hearing Officer Counsel Bryan Neal issued an order entitled "Order Denying Respondent's [Motion] to Dismiss Based on Doctrine of Laches,, noting, among other things, that the Respondent offered no evidence of any kind supporting his allegations that the Board Staff delayed this matter in any way, that the Board Staff delayed this matter to the prejudice of the Respondent through reckless or deliberate lack of diligence or with deliberate intent to prejudice the Respondent in defending the allegations in the Notice and that there were no factual or legal grounds to support the Respondent's motion.

During the Hearing, Mr. McCaleb moved for the admission of two (2) more exhibits, Exhibit 7 and Exhibit 8, respectively, to which there also was no objection. The seventh exhibit, Exhibit 7, was an Appraisal Work Product Review Report for the Oklahoma Real Estate Appraiser Board RBA-15-08 on 2930 N. Birch Street, McAlester, Oklahoma 74501 (Property 1)

dated November 2, 2013, prepared by Peer Reviewer (and Appraiser) Betty J. Cagle, 10179CRA. The eighth exhibit, Exhibit 8, was an Appraisal Work Product Review Report for the Oklahoma Real Estate Appraiser Board REA-15-08 on 4208 Rosetree Lane, Enid, Oklahoma 73703 (Property 2) dated November 2, 2013, prepared by Peer Reviewer (and Appraiser) Betty J. Cagle, 10179CRA.

The Respondent did not submit any documents for admission as evidence in this matter. Neither party to these proceedings requested that a court reporter record this matter and neither party to these proceedings submitted any proposed findings of fact or proposed conclusions of law to the Disciplinary Hearing Panel for their consideration.

WITNESSES AND EVIDENCE PRESENTED

The Board's Prosecutor presented two (2) witnesses in support of the case against the Respondent: Christine McEntire, the Board's Director; and, Betty J. Cagle, a certified residential appraiser licensed as 10179CRA, of Oologah, Oklahoma, and a current Member of the Board.

Christine McEntire Testimony (Summary)

Upon being duly sworn, Ms. McEntire testified that she has worked for the Board for seven years, four of which were as the Board's Legal Secretary and more recently she has been the Board's Director for the past three years. Ms. McEntire identified the Board's Exhibit 1 as the Board's Decision as to the Disciplinary Hearing Panel Recommendation in Case #12-050 involving the Respondent with the Board adopting the recommendation of the then-seated hearing panel on August 7, 2013, to impose discipline, in part, through a one (1) year Probation. According to Ms. McEntire, as part of the one year Probation which began on the date of the Board's Decision (August 7, 2013), the Respondent was required to submit his work logs to the Board on a monthly basis which submissions he has made and that two of his reports from September, 2013, were

pulled for review by a member of the Board's Standards and Disciplinary Procedures Committee. Further, according to Ms. McEntire, the Respondent has successfully completed both of the two corrective education courses he was required to complete during his one (1) year probation.

Ms. McEntire identified the Board's Exhibit 2 as the subject appraisal report on 2930 N. Birch Street, McAlester, Oklahoma 74501 dated September 6, 2013 (Property 1), and the Board's Exhibit 3 as the subject appraisal report on 4208 Rosetree Lane, Enid, Oklahoma 73703 dated September 25, 2013 (Property 2).

Ms. McEntire testified that the results of the reviews of the Respondent's appraisal reports by the peer appraiser on Property 1 and Property 2 were that generally there were a number of errors and that each of the Respondent's appraisal reports were believed to be misleading.

On cross examination, Director McEntire testified that she is not an appraiser, that she was not making a professional opinion as to the results of the reviews of the Respondent's appraisal reports. Continuing she stated that this matter was the third case for Mr. Mowat before a Disciplinary Hearing Panel, the third within a thirteen or fourteen month period, that this was not a unique situation for an appraiser to be prosecuted three times within a thirteen or fourteen month period. When questioned for the names of other appraisers so prosecuted within a short time frame, Ms. McEntire responded with the names of Jeff Phillips several times, his son Zachery Phillips several times as well, Kevin Broderick five or six times, and Peggy Thompson five or six times, but she did not know the actual time frames for any appraiser so disciplined. In another line of questioning as to the Board's receipt of any complaints from anyone on the Respondent, Ms. McEntire stated that she had received no complaints from anyone including, but not limited to, any customers, buyers, sellers, lenders, guarantors, the City of McAlester or the City of Enid, that she had no evidence of the Respondent having engaged in profiteering and that there was no way to

know if the Respondent profiteered from these two appraisals.

Betty J. Cagle Testimony (Summary)

Upon being duly sworn, Ms. Cagle testified that she resided in Oologah, Oklahoma, that she had been a real estate appraiser since 1983, that she is licensed as a Certified Real Estate Appraiser, that she is a member of the Appraisal Institute, the Right of Way Association and the Board of Realtors. Continuing, Ms. Cagle testified that she performs appraisal work product review reports as a volunteer to determine if an appraisal conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) and that she performs such appraisal work product reviews for pay as well. According to Ms. Cagle, the procedure she follows in such reviews is to read the appraisal report, look at the work file and to look at each part of the appraisal report for deficiencies.

2930 North Birch Street, McAlester, Oklahoma (Property 1)

Ms. Cagle proceeded to discuss her review of the Respondent's appraisal report 1 (a summary appraisal report as noted in Exhibit 2, page 5, first line) for the property at 2930 North Birch Street, McAlester, Oklahoma, which she identified as the Board's Exhibit 2 and which report she said had an effective date of September 6, 2013. Ms. Cagle noted that some areas of the Respondent's appraisal report 1 were deficient on page 5 of Exhibit 2 such as there were no details listed in the "Improvements," section as to the updating of the kitchen and bathrooms, that there were no details of what was updated and that it was C4 condition. According to Ms. Cagle, a USPAP Instructor, C4 condition means that not much was updated while C3 condition means that most if not all components were updated. According to Ms. Cagle, the appraisal report 2 description sounds like C3 condition and not C4 condition as reported by the Respondent (Exhibit 2, page 5) with no repairs needed. As to the Respondent's description of the property 1's "Interior," as being "average," it is not consistent with his C4 condition description. At the request of the Board's

Prosecutor, Ms. Cagle read into the record certain language from Exhibit 2, page 23, as to the "Condition Ratings and Definitions,, as being the definition of the C4 condition. Ms. Cagle noted that based on what the Respondent has reported and without further explanation, she is unsure what the rating or condition should be as its hard to say without more information if it's a C3 or a C4 property.

Ms. Cagle discussed the "Cost Approach,, in Exhibit 2, page 7 and "site value,, which she said was the value of land as though it was vacant with no improvements. The Respondent's appraisal report 1 (Exhibit 2, page 7) on the Cost Approach, according to Ms. Cagle, contained no summary of the closed sales as required so that the reader can replicate the results. Also on the Cost Approach, Ms. Cagle noted that the Respondent's use of the word "Current,, for the effective date of the cost data was not correct as the appraiser is supposed to list the actual date of the cost data from the "Marshall & Swift,, manual itself, not the date the appraiser looked at such cost data. The Board's Order No. 13-014A issued in the Respondent's previous disciplinary proceeding (Complaint No. 12-050) on August 7, 2013 (and admitted herein as Exhibit 1), was noted as the Respondent had in that proceeding likewise provided no support for his site value determination in an appraisal report (*See* Exhibit 1, page 7, second paragraph, second sentence) about a month before the Respondent wrote appraisal report 1 in September of 2013.

Ms. Cagle discussed the "Sales Comparison Analysis,, in Exhibit 2, page 6, noting that adjustments are market driven. As to the Respondent's use of adjustments based on cost percentages (Exhibit 2, page 7), Ms. Cagle noted that she has no idea of his meaning. The square footage of comparable one (1) is 4,000 feet larger than the subject property 1 with no adjustment made while comparable two (2) and comparable three (3) were adjusted higher with no explanation why the Respondent did so (Exhibit 2, page 6).

Ms. Cagle discussed the Respondent's work file for subject property 1 noting that the MLS data sheet for comparable one (1) at 54 W. Bolen Avenue, McAlester, Oklahoma (Exhibit 5, page 3), discloses that comparable one (1) has been remodeled but provides little detail. According to Ms. Cagle, the Respondent should have telephoned the real estate agent as a data source to get the details of such remodeling that were not reported in the grids in Exhibit 2, page 6.

As to the "Income Approach,, (Exhibit 2, page 7), Ms. Cagle stated that when the income approach is not done because its not required, the Respondent should have explained why it was not done in his appraisal report 1 as USPAP 2012-2013 Edition Standards Rule 2-2(b)(8), applicable to summary appraisal reports such as appraisal report 1, requires that it be explained. Ms. Cagle read USPAP 2012-2013 Edition Standards Rule 2-2(b)(8), applicable to summary appraisal reports, into the record "...exclusion of the sales comparison approach, cost approach, or income approach must be explained.,, The Respondent, according to Ms. Cagle, provided no such required explanation.

4208 Rosetree Lane, Enid, Oklahoma (Property 2)

Ms. Cagle proceeded to discuss her review of the Respondent's appraisal report 2 (a summary appraisal report as noted in Exhibit 3, page 5, first line) for the property at 4208 Rosetree Lane, Enid, Oklahoma, which she identified as the Board's Exhibit 3 and which report she said had an effective date of September 25, 2013. It was noted by Ms. Cagle that the Respondent's appraisal report 2 had "issues,, similar to those of the Respondent's appraisal report 1 (2930 North Birch Street, McAlester, Oklahoma) admitted herein as Exhibit 2.

According to Ms. Cagle, the Respondent in the "Improvements,, section of his appraisal report 2 (Exhibit 3, page 5), reports that the bathrooms were updated 1 to 5 years ago but he provides no explanation of how the bathrooms are so updated. In reference to the appraisal report 2's "Sales Comparison Analysis,, (Exhibit 3, page 6), Ms. Cagle noted that the Respondent reports

that subject 2 has an actual age of 38 years (Exhibit 3, page 6) and that the subject 2 has an effective age of 12 years (Exhibit 3, page 5). According to Betty Cagle, the Respondent provides no explanation of how he reached his determination of the subject 2's effective age, he reports nothing about the age of the subject 2's roof, carpeting and makes no mention of any deferred maintenance. Ms. Cagle stated that while the Respondent describes the condition of subject property 2 as C4 (Exhibit 3, page 5), the Respondent provides no explanation of such C4 rating determination.

Ms. Cagle discussed a photograph in Exhibit 3 at page 13 that evidences the existence of a glassed-in (or enclosed) patio on the subject property 2, which she stated such glassed-in patios are generally not included in the Gross Living Area (GLA) under Fannie Mae guidelines or American National Standards Institute (ANSI) standards and which glassed-in (or enclosed) patio the Respondent included in his GLA calculation (Exhibit 3, page 6). While listing the County's records as his only data source (Exhibit 3, page 6), the Respondent, according to Ms. Cagle, differed from his County data source in making his GLA calculation (See Exhibit 3, page 6) as the County Assessor's records did not include the square footage of the glassed-in (or enclosed) patio in the County's determination of the GLA for the subject property 2 (Exhibit 6, page 3) whereas such glassed-in (or enclosed) patio was included in the Respondent's GLA calculation. Referring to USPAP, Ms. Cagle read USPAP standards Rule 2-1 into the record noting that "[e]ach written ... real property appraisal report must: (a) clearly and accurately set forth the appraisal in a manner that will not be misleading; (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly...". In her discussion of appraisal report 2, Ms. Cagle noted that if a reader of an appraisal report can't understand the report, then such appraisal report is misleading and there is no requirement of injury to anyone before a report can be misleading.

According to her review of the Respondent's "Cost Approach," in Exhibit 3, page 7, Betty

Cagle indicated that the "site value," issue in appraisal report 2 is similar to the site value issue in appraisal report 1 as it also contained no summary of the closed sales as required so that the reader can replicate the results.

As to the "Sales Comparison Approach," in appraisal report 2 (Exhibit 3, page 6), Ms. Cagle testified that the MLS data sheet for comparable one (1) in the Respondent's work file (Exhibit 6, page 10) notes that such comparable has newer laminate, tile, carpeting and modern paint colors while the Respondent reports the condition as C4 and does not report any details of such updating in his appraisal report 2 (Exhibit 3, page 6).

The MLS data sheet for comparable two (2) in the Respondent's work file (Exhibit 6, pages 13 and 14), according to Betty Cagle, indicates that such comparable has an enclosed patio, which information is not disclosed in the Respondent's appraisal report 2.

As to the "Income Approach," Ms. Cagle testified that the Respondent's appraisal report 2 in Exhibit 3, page 7 contains no income approach and no explanation is provided.

As to the "Cost Approach," (Exhibit 3, page 7), Ms. Cagle testified that she read the Respondent's response to the grievance in this matter (Exhibit 4, page 1) as to the manner in which Respondent stated that he utilized the "Marshall & Swift," manual noting that when using the "Marshall & Swift," manual for cost data, the date of the manual itself is to be used in an appraisal report, not the date that the cost data is extracted by an appraiser as the Respondent had done in appraisal report 2 (Exhibit 3, page 7). Ms. Cagle also noted that the Respondent's "site value," in the Cost Approach (Exhibit 3, page 7) includes no support or summary of the closed sales as required.

Ms. Cagle testified that she prepared an Appraisal Work Product Review Report for the Oklahoma Real Estate Appraiser Board on 2930 N. Birch Street, McAlester, Oklahoma (Property 1) dated November 2, 2013, which she identified as Exhibit 7. Continuing, Ms. Cagle also testified that

she prepared an Appraisal Work Product Review Report for the Oklahoma Real Estate Appraiser Board on 4208 Rosetree Lane, Enid, Oklahoma (Property 2) dated November 2, 2013, which she identified as Exhibit 8.

On cross examination, Ms. Cagle testified that she is currently on the Board, that she has been on the Board for five years, that she was reappointed to the Board for another five-year term in July of 2014, that prior to her service on the Board that she has served on hearings panels in the past two or three times a year and that she has never served on the Board's Probable Cause Committee.

As to Property 1 (2930 N. Birch Street, McAlester, Oklahoma), Ms. Cagle stated that she did not visit the site and had no personal knowledge from the site. As to appraisal report 1 in Exhibit 2 on Property 1, Ms. Cagle noted that the Respondent's disclosures of the kitchen and bathroom merely being "updated,, within the last 1 to 5 years with no details or explanation, are statements that are misleading to a "reader,, whom she said meant a "reader,, being any person reading an appraisal report. Further, she indicated that the use of the words "updating,, and "remodeling,, can be a vast difference.

When questioned, Ms. Cagle testified that she had no evidence that anyone called the Board and said that they were misled by the Respondent's appraisal reports. However, according to Ms. Cagle, the standard is whether an appraisal report conforms with USPAP, not that a client called to complain. Several times Ms. Cagle noted that it was not her job [as a peer reviewer] to take client calls with complaints.

When questioned as to the Respondent's "site value,, in his "Cost Approach,, on Property 1 in his appraisal report 1 (Exhibit 2, page 7), Ms. Cagle said that the Respondent's listed site value based on "closed sales,, without any other information is misleading because there is not enough information provided by the Respondent for her to replicate the closed sales.

As to Property 2 (4208 Rosetree Lane, Enid, Oklahoma), Ms. Cagle testified that she performed a desk review only and that she did not visit the site. When questioned about the "Improvements," section of the Respondent's appraisal report 2 (Exhibit 3, page 5), Ms. Cagle stated that it was not part of her job [as a peer reviewer] to determine if the reader of an appraisal report is actually misled. As to the issue of the conclusion of the square footage of a glassed-in or "enclosed patio," in a GLA calculation, Ms. Cagle testified that the Respondent's appraisal report 2 did not provide enough information in the "Sales Comparison Analysis," section to the reader to know if the enclosed patio was part of his GLA calculation on the subject property 2 (Exhibit 3, page 6).

When questioned as to how she prepared her appraisal report reviews, Ms. Cagle testified that in preparing her Appraisal Work Product Review Reports for Property 1 and Property 2, that she did so in accordance with USPAP standards without regard to any client. Ms. Cagle, when questioned as to why an appraiser must make certain disclosures in an appraisal report when the information may be located in an appraiser's work file, indicated that the reader of an appraisal report won't have access to the appraiser's work file and that in this case the Respondent did not have any "actual closed sales of vacant sites....," information in his work files (Exhibit 2, page 7; Exhibit 3, page 7).

At the conclusion of Ms. Cagle's testimony, the State rested.

At this time, the Respondent verbally entered a Motion to Demur to the Evidence and stated that he interposed a Motion to Dismiss alleging that he had committed no violation of USPAP and the Oklahoma Certified Real Estate Appraiser Act and that the Board had not proven its case against the Respondent. After allowing the Board's Prosecutor an opportunity to respond to the oral motion, the Disciplinary Hearing Panel asked the parties to withdraw from the hearing room so that the Panel could deliberate on the Respondent's Motion.

Upon return to the open hearing with all parties present, the Chairman John M. Travers publicly announced his vote to deny the Respondent's Motion to Demur as did Panel members Mark C. Thompson and William F. Stephens, Jr. who each publicly announced their respective votes to also deny the Respondent's Motion to Demur. The Board Hearing Counsel announced that the Respondent's Motion to Demur was denied and that the case would proceed. Immediately thereafter, the Respondent put on his defense to the Complaint with the Respondent being the only witness.

William D. Mowat Testimony (Summary)

The Respondent, William D. Mowat, upon being duly sworn, testified that he has been an appraiser for 22 years, that he is licensed as a Certified Residential Appraiser and has been for 20 of those years, that he lived in McAlester for 20 years until five years ago when he moved to Stillwater where he now resides. The Respondent testified that while living in McAlester, he was an appraiser for 18 of those years, that Exhibit 2 (Property 1) was his appraisal report and that Exhibit 3 (Property 2) was also his appraisal report.

Mr. Mowat testified that he personally inspected the real property at 2930 N. Birch Street, McAlester, Oklahoma (Property 1), that he put nothing in his appraisal report 1 to be misleading, that he rates the subject property 1 as C4 and not C3, that it would be misleading to rate it as C3, that he knew the former homeowner, they had been friends from church, that he had been inside it many times, that it was a distressed property and that "update,, to him means improving by upgrading. In his appraisal report, the Respondent said he used the word "average,, (Exhibit 2, page 5) to mean that it was typical for the neighborhood, nothing fancy, nothing updated. As to his "Cost Approach,, in his appraisal report 1 (Exhibit 2, page 7) and his cost data, the date of which he described as "current,, he meant the date he used it as he was never told to use a different date and

that maybe he missed a directive. The Respondent said that there was no directive on what to include in addendums and that no customer of his requested any supplemental information.

As to Property 2 (4208 Rosetree Lane, Enid, Oklahoma), the Respondent said that no customer ever requested supplemental information, that there was no requirement to call and confer with anybody, that he just used MLS data sheets and that they are located in his work files.

Back on Property 1 (2930 N. Birch Street, McAlester, Oklahoma), the Respondent testified that as to his "Income Approach,, (Exhibit 2, page 7), most of the properties were owner-occupied, that it was hard to get information, that he did not have enough data to justify using the Income Approach and that there was no verifiable income stream to verify the data. When questioned as to whether anyone asked about his not using the Income Approach (Exhibit 2, page 7), the Respondent said that no one asked him about it or said that they were misled by it. As to Depreciation, Mr. mowat said that the depreciation calculation is not required to be done in any certain way, that the subject property 1's remaining life is 60 years, that the effective age of the subject property 1 is only his call to make as the appraiser, no one else's, and that often the chronological age differs from the effective age.

Returning to Property 2 (4208 Rosetree Lane, Enid, Oklahoma), the Respondent discussed the enclosed patio stating that it had a central heat and air duct in it from the ceiling, that the glass itself was some type of special heavy glass, that it was unusual for him to include such an enclosed patio in GLA but he did so this time, that there was no indication from his property inspection that the barbeque grill depicted in the photograph in his work file (Exhibit 6, page 14), was actually used inside the enclosed patio, and that he never heard any questions about the pictures on page 14. As to his not using the "Income Approach,, (Exhibit 3, page 7), the Respondent said that he had limited data as to the support of an income stream, and that the property was owner-occupied. As a general

matter in connection with his appraisal report 2, Mr. Mowat testified that he exercised reasonable diligence, that he did not wilfully violate the Oklahoma Certified Real Estate Appraisers Act, that he acted as an impartial professional, that there was no misrepresentation and his appraisal report 2 was not misleading.

Returning again to Property 1 (2930 N. Birch Street, McAlester, Oklahoma), the Respondent testified that he did not put in an explanation about the "Income Approach,, not being applicable, but that now he puts the "Income Approach,, in an Addendum, that he never did so before as no one told him to do so, that he did not put this one in an Addendum but that what he did do complies with all of USPAP. As to comparable one (1), he said he did not report it as updated. As to the MLS data sheet in his work file on comparable one (1) evidence that it was remodeled (Exhibit 5, page 3), the Respondent said that it was his determination, post remodelization, that the condition was C4, that he did not mention in his appraisal report 1 that it was remodeled, that there was no way for the reader to know it was remodeled, and that it was just his professional opinion as an appraiser. Continuing, Mr. Mowat testified that while his working papers on comparable one (1) in his work file mention that it was updated/remodeled, he did not include that information in his appraisal report 1, that comparable one (1) has more updates than his subject property 1 based on the MLS data sheet but they are not significant enough for a rating of C3.

Returning yet again to Property 2 (4208 Rosetree Lane, Enid, Oklahoma), the Respondent discussed the data source conflict as to his listing subject property 2 as having 1,702 square feet GLA in his appraisal report 2 (Exhibit 3, page 5) while the County Assessor's records in his work file list the subject property 2 GLA square footage as being 1,581 (Exhibit 6, page 3) noting that he did not say anything in his appraisal report 2 about such conflict.

The Respondent testified that USPAP doesn't say how to explain the Income Approach so

the exclusion of the Income Approach from his appraisal reports requires no explanation in his opinion, that nothing in his 25 page appraisal report 1 (Exhibit 2) or in his 29 page appraisal report 2 (Exhibit 3) is misleading, and that he had no intent to be misleading. At this point in the proceedings, the Respondent rested his defense.

The Respondent presented no other witnesses in his defense and at no time introduced any exhibits into evidence on his own behalf.

COMES NOW the Oklahoma Real Estate Appraiser Board Disciplinary Hearing Panel being duly appointed in this matter as aforesaid hereinabove, after having received all evidence and being fully advised in the premises as to the above matter, and recommends that the Board find by clear and convincing evidence as follows, and make the following disciplinary recommendations as set forth at OAC 600:15-1-14, to wit:

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.

3. The Respondent, WILLIAM D. MOWAT, is a State Certified Residential

Appraiser in the State of Oklahoma, holding certificate number 11022CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on August 10, 1993.

FINDINGS OF FACT

It is the finding of the Disciplinary Hearing Panel that the following facts were proven by clear and convincing evidence as follows:

1. The Respondent, WILLIAM D. MOWAT, is a State Certified Residential Appraiser in the State of Oklahoma, holding certificate number 11022CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on August 10, 1993.

2. The complaint contains two (2) separate appraisal reports completed by the Respondent. Both appraisal reports contain information submitted by the Respondent which resulted in two misleading appraisal reports.

2930 North Birch Street, McAlester, Oklahoma

3. In August or September of 2013, 1st Capital Mortgage (the "client,"), hired the Respondent to complete an appraisal (the "appraisal 1,") for a property located at 2930 North Birch Street, McAlester, Oklahoma (the "subject 1,, or "subject Property 1,,).

4. The Respondent completed the appraisal 1 and submitted the appraisal 1 to the client, with an effective date of September 6, 2013. The appraisal 1 was for a purchase transaction.

5. The Respondent committed a series of errors in the appraisal report which led to a misleading appraisal report. These errors include, but not limited to, the following paragraphs 6 - 13.

Description of Improvements

6. The Respondent failed to adequately describe the improvements and any effect

they may have had on value. The Respondent reports that the kitchen and bathrooms have been updated but provides no explanation or analysis as to what type of updating was completed (Exhibit 2, page 5).

7. The Respondent reports that the condition of the interior is average in its entirety. The Respondent fails to explain why all of the interior condition is average in light of updating the bathrooms and kitchen (Exhibit 2, page 5).

Cost Approach

8. The Respondent reports that the site value is based on "actual closed sales of vacant sites...", but does not provide any summary of these purported sales (Exhibit 2, page 7).

9. The Respondent reports that the effective date of his cost data is "current,, which is not an adequate effective date (Exhibit 2, page 7).

Sales Comparison Approach

10. The Respondent fails to report his rationale for his adjustments or his lack of adjustments made on the sales comparison grid (Exhibit 2, page 6), which failure to report was admitted by the Respondent. For example, per the MLS data sheet provided in the Respondent's work file (Exhibit 5, page 3), comparable one (1) has been updated and remodeled. This would seem to make it in C3 condition (rather than C4 as reported by Respondent) per Respondent's Condition Ratings and Definitions (Exhibit 2, page 23).

11. The subject property 1's site size is reported as 15,400 square feet (Exhibit 2, page 6). Comparable one (1) is reported as 19,600 square feet (Exhibit 2, page 6); comparable two (2) is reported as 8,990 square feet (Exhibit 2, page 6); and comparable three (3) is reported as 13,671 square feet (Exhibit 2, page 6). The Respondent does not explain why he failed to

make an adjustment for the site value of comparable one (1), when he did make adjustments for the site values of comparables two (2) and three (3), (Exhibit 2, page 6).

Income Approach

12. The Respondent failed to explain in the appraisal report 1 (Exhibit 2, page 7) why the income approach was omitted.

13. The many errors and omissions in this appraisal report 1 (Exhibit 2) greatly reduces its credibility. The Respondent has demonstrated a lack of understanding of USPAP and of the appraisal process.

4208 Rosetree Lane, Enid, Oklahoma

14. In September of 2013, Wells Fargo Bank (the "client 2,") hired the Respondent to complete an appraisal (the "appraisal 2,, or "appraisal report 2,,) for a property located at 4208 Rosetree Lane, Enid, Oklahoma (the "subject 2,, or "subject property 2,,).

15. The Respondent completed the appraisal 2 and transmitted the appraisal 2 to the client 2, with an effective date of September 25, 2013. The appraisal 2 was for a refinance transaction.

16. The Respondent committed a series of errors in the appraisal report 2 which led to a misleading appraisal report. These errors include, but are not limited to, the following in paragraphs 17-24.

Description of Improvements

17. The Respondent reports that the bathroom has been updated within five years, but provides no particulars as to what was updated (Exhibit 3, page 5).

18. The Respondent reports that the subject property 2, built in 1975, is in C4

condition. Based upon this, his effective age of 12 years is inaccurate and misleading due to the lack of an adequate explanation or support in the appraisal report 2 (Exhibit 3, page 5).

Cost Approach

19. The Respondent reports that the site value is based on "actual closed sales of vacant sites....," but does not provide any summary of these purported closed sales (Exhibit 3, page 7).

Sales Comparison Approach

20. The Respondent does not explain how he determined his adjustments on comparable sale four (4), (Exhibit 3, page 8).

21. Comparable one (1), according to the MLS data sheet found in the Respondent's work file (Exhibit 6, page 9), has been updated and would seem to be in superior condition to the subject property 2.

22. Comparable two (2) has an enclosed patio that is not reported or adjusted for in the appraisal report 2 (Exhibit 3, page 6). The Respondent's work file (Exhibit 6) has an MLS data sheet for comparable two (2), (Exhibit 6, page 13).

Income Approach

23. The Respondent has failed to explain in the appraisal report 2 why the income approach was omitted (Exhibit 3, page 7).

24. The many errors and omissions in this appraisal report 2 greatly reduce its credibility. The Respondent has demonstrated a lack of understanding of USPAP and of the appraisal process.

RECOMMENDED DISCIPLINE

WHEREFORE, it is the recommendation of the Disciplinary Hearing Panel after

considering all the testimony and evidence presented, that:

1. Respondent William D. Mowat 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).

2. Respondent William D. Mowat, shall successfully complete corrective education as follows:

- The **FIFTEEN (15) HOUR** Course Number 600: National USPSP Course
- The **FIFTEEN (15) HOUR** Course Number 612: Residential Site Valuation and Cost Approach
- The **FIFTEEN (15) HOUR** Course Number 614: Residential Report Writing and Case Studies

The course(s) must all be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of the Board Order. The course(s) must be tested and must be live courses, attended in person by the Respondent (not distance and/or correspondence and/or on-line courses). The course(s) shall not be counted toward continuing education credit by the Respondent, other than the Course Number 600: National USPSP Course. The Course Number 600: National USPSP Course may be counted toward continuing education credit by the Respondent.

3. Respondent William D. Mowat shall pay 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 fully paid within thirty (30) days from the date of any final order of the Board.

4. Respondent William D. Mowat shall supervise no trainee appraiser(s) for a period of Two (2) years 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 instantler, with notification forwarded immediately to Respondent by Certified U. S. mail, return receipt requested.

WITNESS our hands this _____ day of _____, 2014.

**OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL**

By: John M. Travers
JOHN M. TRAVERS
Disciplinary Panel Chairman

By: _____
WILLIAM F. STEPHENS, JR.
Disciplinary Panel Member

By: _____
MARK C. THOMPSON
Disciplinary Panel Member

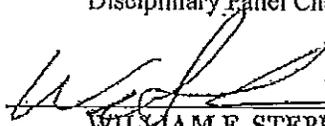
WITNESS our hands this _____ day of _____, 2014.

OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL

By:

JOHN M. TRAVERS
Disciplinary Panel Chairman

By:



WILLIAM F. STEPHENS, JR.
Disciplinary Panel Member

By:

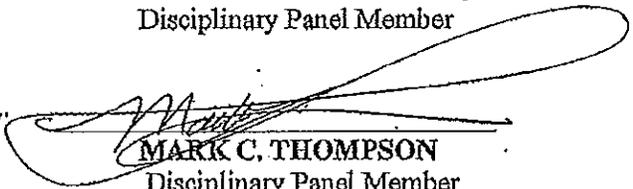
MARK C. THOMPSON
Disciplinary Panel Member

WITNESS our hands this _____ day of _____, 2014.

**OKLAHOMA REAL ESTATE
APPRAISER BOARD
DISCIPLINARY HEARING PANEL**

By: _____
JOHN M. TRAVERS
Disciplinary Panel Chairman

By: _____
WILLIAM F. STEPHENS, JR.
Disciplinary Panel Member

By: 
MARK C. THOMPSON
Disciplinary Panel Member

CERTIFICATE OF MAILING

I, Ashley Snider, hereby certify that on the 17th day of September, 2014 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:

Daniel J. Gamino
GAMINO & ASSOCIATES, P.C.
Jamestown Office Park, North Building
3035 N.W. 63rd Street, Suite 214
Oklahoma City, Oklahoma 73116

7013 2250 0000 5046 1509

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

William D. Mowat
P.O. Box 2116
Stillwater, Oklahoma 74076

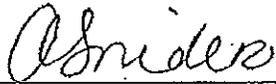
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