

2017, pursuant to a request from Board staff, Ward submitted the subject appraisal report, which was identified on his work log for appraisal assignments completed during the month of July. Shortly thereafter, this report was submitted to a member of the Board's Standards and Disciplinary Procedures Committee for review.

2. On November 27, 2017, Board staff received the reviewer's work product review of the subject appraisal. On a scale of 4 to 20, the reviewer scored this appraisal report an "11." The bar for passing a review is "12" and this appraisal report is considered failing. The Respondent scored a "2" in the category of "Logic and Reasoning," which is the rating for "unacceptable." The reviewer's comments are attached hereto and incorporated herein.

3. Concurrently, Board staff subpoenaed Red Sky Risk Services in order to receive a copy of the subject appraisal report. A comparison of the two appraisal reports reflects a number of differences. Although not included herein, in email communications with Ward he confirmed to Board staff that there were no other versions of the appraisal report completed or in his work file. Further, he stated that the report he provided to staff is the same report he produced to Red Sky Risk Services.

AGREED FINDINGS OF FACT

1. In June of 2017, Respondent was hired to complete an appraisal (the "appraisal") for a property located at 602 7th Avenue SE, Ardmore OK 73077 (the

“subject”). Respondent completed the appraisal with an effective date of July 7, 2017.

2. Respondent committed a series of errors in the report which led to a misleading and non-credible report.

NEIGHBORHOOD SECTION

3. The neighborhood boundaries and description are inadequate.

4. There was no highest and best use analysis.

COST APPROACH

5. The Cost estimates were not analyzed and supported. The base costs are not correct.

6. Respondent did not identify and correctly analyze depreciation items in the Cost Approach.

7. Respondent has not correctly employed recognized methods and techniques in the Cost Approach.

8. The site value estimate was completed using local site sales listed on the report. The sales indicated a range from \$0.50 to \$2.03 per square foot for listed sales. The subject has a 15,000 square foot lot and assigned a value of \$0.33 per foot with no comments on adjustments or how the lower price per foot was compared to sales provided.

9. Further, there was no description of the “as is” site improvements listed

at a \$13,500 adjustment on the grid. A reader could not estimate what the adjustments were for.

10. The cost per foot for replacement was \$34.99 per foot to replace a 1,356 square foot frame home and \$5.99 per foot for an attached carport. Then, a depreciation of 66.6% with 20 years remaining life. No additional data was provided to show where replacement cost was in this range for a frame, 1,356 square foot, residential property.

11. Overall, there was no support for the cost approach.

SALES COMPARISON APPROACH

12. Respondent did not analyze comparable sales data and use appropriate appraisal methods and techniques that support his conclusions.

13. Respondent did not adequately collect, verify, and report comparable sales.

14. Respondent did not provide adequate reasoning for adjustments, analysis, opinions and conclusions.

15. Respondent did not correctly employ recognized methods and techniques.

16. Respondent failed to report a prior sale for comparable three.

17. The sales chosen by Respondent had minimal adjustments made between subject and the sales.

18. The GLA adjustments were incorrect in that Respondent adjusted the comparables at \$23 per square foot, but the properties sold for less than that with no comment or support.

19. The site sizes were smaller with only one sale having a similar site size, but no adjustments were made. The subject was assigned a value by Carter County of \$4,050 and sales ranged from between \$3,143 to \$4,000 and all lower than subject and smaller. Respondent provided no explanation for this in the report.

20. Sale #3 indicated a sale price of \$142,500 recorded in Carter County deed in Book 6400, Page 281. The sale indicated 5 properties listed on one deed and appraiser did use local MLS for sale data, but no information listed about other 4 properties included on one deed sale. A copy of the deed is included.

INCOME APPROACH

21. The report did not have any comment which explained why the Income Approach was excluded.

WORK FILE

22. Respondent did not keep an adequate work file.

AGREED CONCLUSIONS OF LAW

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)(6): "Violation of any of the standards for the development or communication of real estate appraisals"

as provided in the Oklahoma Certified Real Estate Appraisers Act.”

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.

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 his 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. All other original allegations in this matter are dismissed.

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

8. All parties to this Consent Order have been represented by counsel.

9. This Consent Order may be executed in one or more counterparts, but all of such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other party, facsimile and visual digital reproductions of original signatures shall be effective the same as if they were the originals.

10. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

11. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this

¹ Currently the 2018 Board meetings are scheduled for 9:30 a.m. for: November 7, December 5.

Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

12. This Consent Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understanding, discussions, negotiations, and commitments (written or oral). This Consent Order may not be altered, amended, modified, supplemented or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

14. The Parties represent and warrant to one another that each party has authority to enter into this binding Consent Order. The OREAB represents and warrants that the undersigned have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Consent Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

16. The parties acknowledge that they understand the provisions of this Consent Order.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

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

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

ORDER

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

1. Respondent agrees that he will successfully complete, pass the test, and provide proof of completion and passing of the tests to the Board's office for the following corrective education courses within sixty (60) days from the date the Consent Order is approved by the Oklahoma Attorney General. Should the courses not be offered within the first sixty days (60), the Respondent shall advise the Board and shall be granted an extension of time to complete the course work. The courses to be taken are:

- a) Course #612 or 60E: Residential Site Valuation and Cost Approach 15 hours; and
- b) The Appraisal Foundation's *Appraiser Self Protection: Documentation and Record Keeping* 4 hours (no CE credit given).

2. Respondent shall pay costs of One Thousand Dollars (\$1,000), to be paid within thirty (30) days of the Final Order, pursuant to 59 O.S. §858-723.

3. Respondent shall be placed on **PROBATION** for a period of **THIRTY (30) DAYS** beginning immediately upon the date he timely completes the two courses listed in paragraph one of this section. During the period of probation, Respondent shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth (5th) 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.

4. Failure to comply the preceding paragraphs in a timely manner will result in an instant suspension of Respondent's license. For good cause, an extension may be granted by the Board. An application for an Extension of Time should be filed at least five business days in advance of the Board meeting to be placed on a Board meeting agenda in advance of the deadline to comply with this Consent Order.

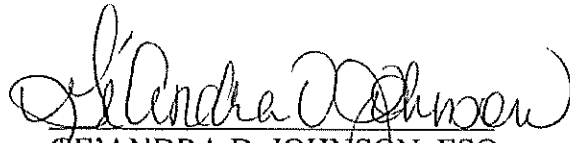
DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

RESPONDENT:

GARY WARD

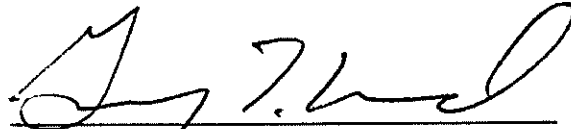
DATE



GE'ANDRA D. JOHNSON, ESQ.
ATTORNEY FOR RESPONDENT

DATE

RESPONDENT:



GARY WARD

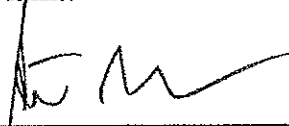
11-1-18
DATE

GE'ANDRA D. JOHNSON, ESQ.
ATTORNEY FOR RESPONDENT

DATE

CERTIFICATE OF BOARD PROSECUTING ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma Real Estate Appraiser Board, the State of Oklahoma and the Respondent with regard to the violations alleged in the formal Complaint.



STEPHEN MCCALED, OBA #15649
Board Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

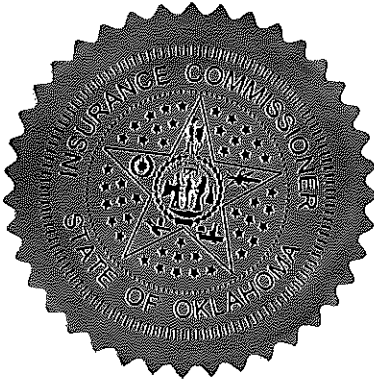
11-2-18

DATE

IT IS SO ORDERED on this 7th day of November, 2018.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board



**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

By:

A handwritten signature in black ink, appearing to read "Bryan Neal", is written over a horizontal line.

BRYAN NEAL, OBA #6590

Assistant Attorney General

Attorney for the Board

313 NE 21st Street

Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I, Kayla Dekat, hereby certify that on the 20th day of November, 2018 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Ge'Andrea D. Johnson, Esq.
400 North Walker Ave., Ste. 100
Oklahoma City, OK 73102

9214 8902 0982 7500 0146 78

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


KAYLA DEKAT



RECEIVED
OKLAHOMA INSURANCE DEPT.

NOV 20 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-458A

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

November 20, 2018

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Appraiser Board intends to take with respect to licensee 11806SLA. The licensee performed an appraisal that failed to meet the required standards. The Board proposes to require the licensee to complete corrective education courses.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board “[t]o censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in [the Act,]” *see* 59 O.S.Supp.2017, § 858-706(7), and to require payment of fines and costs and the completion of educational programs. *Id.* § 858-723(A)(7)-(9). The Board may discipline licensees who “[v]iolat[e] any of the provisions in the code of ethics set forth in [the] Act.” *Id.* § 858-723(C)(13). The Act requires adherence to the USPAP, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed action is necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State’s policy to uphold standards of competency and professionalism among real estate appraisers.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL