

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

In the Matter of HARRIETTE L. MCCOLLOUGH,) Complaint #17-045
Respondent.)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent HARRIETTE L. MCCOLLOUGH, by and through her attorney Rachel Lawrence Mor, 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.

AGREED FINDINGS OF FACT

1. That Respondent is a certified residential appraiser in the State of Oklahoma, holding certificate number 11361CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on September 6, 1994.
2. Upon information and belief, in January of 2017, Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 6357 West 23rd Street North, Muskogee, Oklahoma (the “subject”). Respondent completed the appraisal with an effective date of January 26, 2017.
3. Respondent committed a series of errors in the report which is alleged

to have led to a misleading and non-credible report.

4.. Although the appraiser mentioned the words "appraisal report" or "appraisal" within the Intended User commentary Page 3 of the URAR, and in the Supplemental Addendum under FIRREA Certification Statement, there was no prominent Report Option stated in the appraisal under review. Although the Intended User and Intended Use were referenced on Page 3 of the URAR, it appeared to be a canned comment rather than specific to the appraisal report under review.

NEIGHBORHOOD SECTION

5. The Neighborhood boundaries are not adequately and reasonably defined.

6. Market area trends are not adequately and reasonably discussed and analyzed.

7. The neighborhood boundaries provided on the front page of the URAR in the appraisal report included a few mile radius from the subject property, however, the utilized sales are located from 7 to 36 miles away, outside of the described neighborhood boundaries. The appraisal supplemental addendum indicated the comparable search parameters began with an MLS search for single family homes sold within the prior 3 months, located within 5 miles of the subject, built from 1990-2015 with square feet of 4000-7000, in Muskogee. Good appraisal practice would have clearly indicated in the neighborhood boundary section of the

URAR that the described neighborhood boundaries are for the Subject's immediate market, however the Comparable Sale search boundaries had to be expanded in order to locate larger size good quality sales and listings.

8. The "Sales Trend" chart, included in the appraisal, indicated a decline in median sales price in January of 2017, which was not explained in the report.

SITE / HIGHEST AND BEST USE

9. The site has not been adequately identified/defined.

10. The Muskogee County Assessor's office provides that the subject site was not zoned. The appraisal reported the area as rural and agricultural.

11. The easements, restrictions or other items of a similar nature have not been adequately reported and considered.

12. A map of Muskogee City Limits, and information from The City of Muskogee revealed the Subject parcel is located outside of the City Limits, however the appraisal report failed to disclose this detail. The Subject may have a Muskogee mailing address, however it is not located within the City Limits of Muskogee.

13. According to the Survey in the appraisal report, combined with observation of an aerial image of the Subject, the parcel appears to be landlocked, or otherwise requires traversing through adjacent parcel(s), however no such disclosure was made regarding this condition, or if the Subject site is encumbered

with a "Shared Use Driveway" easement.

DESCRIPTION OF IMPROVEMENTS

14. Relevant characteristics of improvements and any effect they have on value have not been adequately described.

15. The appraisal report indicated the subject property is overbuilt for the Muskogee market, which will affect the market value and marketability, however the report lacked adequate analysis or support for that conclusion. For example, the appraisal failed to indicate if any of the utilized sales and listings are similarly overbuilt for their immediate market, like the subject.

16. The appraisal report did not address any commentary regarding the Subject's functional obsolescence as a result of it being an over-built home in Muskogee, per the appraisal.

COST APPROACH

17. The site value was not developed by an appropriate appraisal method or technique.

18. Cost estimates were not utilized and the reasons for its exclusion was not addressed.

19. Respondent has not identified and correctly analyzed depreciation items (physical, functional, external).

20. Although the appraisal report included a lot value, and an MLS list of lot sales, the lot value was not supported. For example, there was no supporting analysis within the appraisal commentary which explained how the lot value was determined or which sales were given most weight. The list included sales in Muskogee ranging from \$12,000 for a 3.72ac lot to \$55,000 for a 9.64ac lot. All lots in the list that sold for \$35,000 were over 6.23ac in size.

21. The supplemental addendum, "Final Reconciliation", reported that the Cost Approach was included to help support the final determining depreciation from all causes, however the Cost Approach was not developed.

22. If the site is market oriented, there needs to be a short summary of the sales. If another method is used, it needs to be explained in the report.

SALES COMPARISON APPROACH

23. The Respondent does not adequately explain the adjustments. The appraisal mainly stated the adjustments to the comparables but did not explain or support them.

24. All sales utilized in the appraisal are located outside subject's described neighborhood boundaries.

25. The appraisal report indicated the Comparables in the report are

located in Tulsa and Wagoner County, and that the Comps were the most similar in quality of construction, land size and square feet. However, the appraisal report failed to indicate if any of the utilized sales are similarly overbuilt/over-improved for their immediate area, like the subject.

26. GLA discrepancies: County record for Sale 2 indicated it has 3,075 square feet (sf) of gross living area, while the appraisal reported 5,410 sf. County record for Listing 5 reported 5,624 sf, while MLS and the appraisal reported 7,650 sf.

27. An aerial image of Sale 3 revealed it is adjacent to a high tension power line easement, which was not disclosed or analyzed in the appraisal.

28. The date of sale reported in MLS and in the appraisal for Sale 4 was 04/2016 at \$1,050,000, however, County record for Sale 4 indicated it had a warranty deed transaction for \$1,265,000 settled on 02/17/2015 and recorded on 05/03/2016 (document 41192), between Grantor Mary and Dean Lutey and Grantee National Residential Nominee Svc. Additionally this property had a special warranty deed transaction for \$1,050,000 settled on 03/04/2015 and recorded on 05/03/2016 (document 41193) between Grantor National Residential Nominee Svc and Grantee Mark and Janet Brazee. Neither the prior transaction at \$1,265,000 was reported, nor was there an explanation for its omission provided for the 15 month time frame between settlement date and recording date for both

the prior sale and current sale.

29. An aerial image of Sale 4 revealed it backs to a creek, not disclosed or analyzed in the appraisal.

30. An aerial image of Listing 5 revealed it backs to a creek and fronts to a pond, not disclosed or analyzed in the appraisal. Further, the aerial image of Listing 5 revealed that it is an un-platted parcel and is fairly similar to the subject with regard to being among the largest home in a neighborhood of predominantly smaller homes, however the appraiser failed to explain why it was not heavily weighted.

31. The bottom of the fourth page of the appraisal Supplemental Addendum indicated "There were no other sales in the past 2 years similar to the Subject - if there was, I would have used it in the report." However, MLS revealed the following proximate Sale, large size for its development, was available, though not utilized or properly eliminated: 804 Stone Creek Court Muskogee, OK, 4000sf, built in 2007, 0.54ac, sold 03/18/2016.

32. The location adjustments on Sales 1, 3 and 4 were not adequately supported.

33. The site adjustments applied to all but one comparable are inconsistent and unsupported. The list of lot sales provided in the appraisal report did not include any notations or explanations as to which sales were given most

weight and why.

34. Page 2 of the URAR indicated Sale 1 was given most weight for quality of construction. Sales 2 and 4 were also reported to have been given most weight due to location, land size and square footage, and that Sale 2 was inferior to the subject in quality, requiring a large adjustment. However, Sale 1 adjusted out at \$1,131,795, Sale 2 at \$809,750, and Sale 4 at \$1,004,500, therefore the appraised value of \$1,200,000 is not supported, and is inconsistent with the appraiser's conclusion.

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)(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.

¹ Currently the 2018 Board meetings are scheduled for 9:30 a.m. for: October 3, November 7, December 5.

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 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/her 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 she 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 90 days from the date the Consent

Order is approved by the Oklahoma Attorney General. Should the courses not be offered within the first ninety days (90), 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 #602: Basic Appraisal Procedures 30 hours;
- b) Course #612: Residential Site Valuation and Cost Approach 15 hours; and
- b) Course #614: Residential Report Writing and Case Studies 15 Hours.

2. Respondent shall pay costs of Five Hundred Thousand Dollars (\$500), 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 **NINETY (90) DAYS** beginning immediately upon the date she timely completes the three 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 her appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs be sent for review.

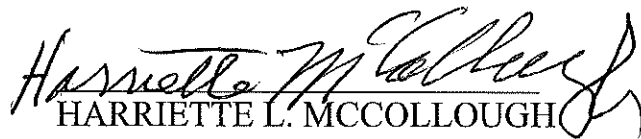
4. Failure to comply with the preceding paragraphs in a timely manner will result in an instant suspension of Respondent's license. For good cause, an

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.

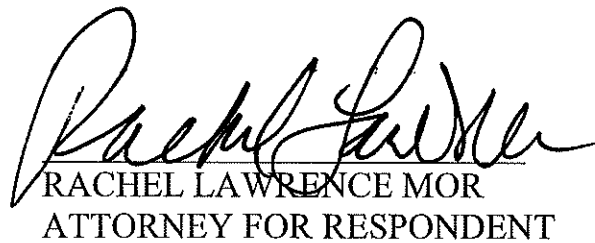
DISCLOSURE

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:


HARRIETTE L. MCCOLLOUGH

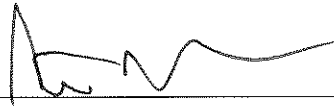
11-8-2018
DATE


RACHEL LAWRENCE MOR
ATTORNEY FOR RESPONDENT

11/8/2018
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.

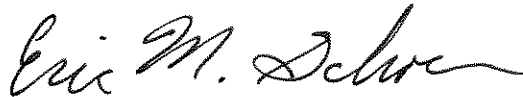


STEPHEN MCCALED, OBA #15649
Board Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

11-21-18

DATE


IT IS SO ORDERED on this 3rd day of October, 2018.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board



**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

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

CERTIFICATE OF MAILING

I, Kayla Dekat, hereby certify that on the 28th 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:

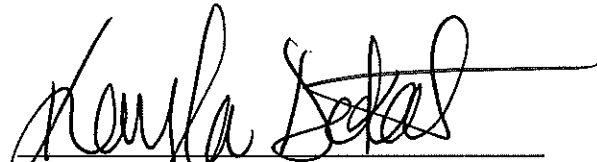
Rachel L. Mor
3037 N.W. 63rd Street, Suite 205
Oklahoma City, OK 73116

9214 8902 0982 7500 0148 69

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.

OCT 18 2018

Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-408A

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

October 15, 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 pursuant to a consent agreement with respect to licensee 12562CRA. The licensee is currently on probation and has performed an appraisal that failed to meet the required standards. The Board proposes to require the licensee to pay \$500 in costs, complete three corrective education courses, and submit to a 90-day probation.

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