

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

IN THE MATTER OF JAMES A. BORING, )  
Disciplinary Hearing, )  
)  
Respondent.)

Complaints No. 02-001, 02-019  
Cases No. 02-0547-DIS, 02-0548-DIS

**BOARD'S DECISION ON DISCIPLINARY  
HEARING PANEL RECOMMENDATION**

ON THE 4th day of March, 2005, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel consisted of three members, H. E. Ted Smith, Jeanette S. Snovel, and William F. Stephens Jr. H. E. Ted Smith was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Counsel Joann Stevenson. The case was prosecuted by the Oklahoma Real Estate Appraiser Board's prosecutor, Stephen L. McCaleb. Respondent appeared by and through counsel, David W. Kisner, after having been mailed a copy of the Recommendations of the Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, with Mr. Caesar recusing, having received the Hearing Panel's recommendations, heard arguments of counsel, and reviewed the briefs filed by Board prosecutor McCaleb and Respondent's Counsel, David W. Kisner, makes the following Order adopting in part and rejecting in part the Hearing Panel's Recommendation:

**JURISDICTION**

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*

2. That the proceedings were conducted in accordance with the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S., §§301-323.

3. That the Respondent, James A. Boring, is a State Licensed Real Estate Appraiser in the State of Oklahoma holding license number 12165SLA.

**FINDINGS OF FACT**  
**WITH RESPECT TO COMPLAINT NUMBER 02-001**

1. That North Pointe Mortgage (the "Client") hired Respondent to appraise a parcel of real estate located at 222 S. 1st Street, Guthrie Oklahoma (the "Property").
2. That on or about November 7, 2001, Respondent prepared an appraisal report (the "Report") on the property and transmitted said report to the Client.
3. That said report contained numerous inaccuracies and omissions, including but not limited to the following:
  - a. an incorrect legal description;
  - b. an incorrect map reference;
  - c. an incorrect zoning classification listed;
  - d. an incorrect site area square footage;
  - e. incorrectly listing that there is a storm sewer;
  - f. incorrectly listing that there is a sidewalk;
  - g. incorrectly listing that the view is "Residential";
  - h. failure to comment on unfavorable site factors.
4. That the report ignores the economic effect of the commercial properties surrounding the subject property.

5. That Respondent has inaccurately applied Marshall and Swift standards.
6. That Respondent used inappropriate comparables, for which appropriate adjustments were not made.
7. That comparable properties were available in the subject neighborhood.
8. That Respondent's appraised value of the property was \$288,000.
9. That on January 4, 2002, a review appraisal on the subject property resulted in an estimated value of \$192,000.
10. That Respondent failed to submit a response to the Oklahoma Real Estate Appraiser Board when notified of the complaint.
11. That the series of intentional inaccuracies and omissions were for the purpose of deriving a higher appraised value than what the property was worth.

**CONCLUSIONS OF LAW**  
**WITH RESPECT TO COMPLAINT NUMBER 02-001**

1. That Respondent has violated 59 O.S. § 858-723(A)(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."
2. That Respondent has violated 59 O.S. § 858-723(A)(6) through 59 O.S. § 858-726, in that Respondent violated:
  - a. The Conduct Section of the Ethics Rule of the 2001 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP 2001);
  - b. The Competency Rule, USPAP 2001;
  - c. Standard 1 and Standards Rules (SR) 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-2(e)(iv), 1-3(a), 1-3(b), 1-4(a), 1-4(b)(iii), 1-5(a), and 1-5(c), USPAP 2001;

d. Standard 2 and SR 2-1(a), 2-2(b), 2-2(b)(iii), 2-2(b)(ix), 2-2(b)(x), 2-2(b)(xii) and 2-3, USPAP 2001;

3. That Respondent has violated 59 O.S. § 858-723(A)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."

4. That Respondent has violated 59 O.S. § 858-723(A)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

5. That Respondent has violated 59 O.S. § 858-723(A)(10): "Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment."

6. That Respondent has violated 59 O.S. § 858-723(A)(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."

**FINDINGS OF FACT**  
**WITH RESPECT TO COMPLAINT NUMBER 02-019**

1. That Cornerstone Mortgage (the "Client") hired Respondent to appraise a parcel of real

estate located at 20401 North Council Road, Oklahoma City, Oklahoma (the "Property").

2. That on or about January 16, 2002, Respondent prepared an appraisal report (the "Report") on the property and transmitted said report to the Client.
3. That in the appraisal report, Respondent used residential properties located in a superior neighborhood as comparable sales.
4. That in the appraisal report, Respondent used residential properties containing superior amenities as comparable sales.
5. That in the appraisal report, Respondent used comparable sales that are in a superior location.
6. That in the appraisal report, Respondent used comparable sales properties which have superior fire and police services.
7. That in the appraisal report, Respondent failed to make appropriate adjustments for the differences between the subject property and the comparable sales.
8. That comparable properties were available in the subject neighborhood.
9. That Respondent's appraised value of the property was \$500,000.00.
10. That on or about February 10, 2002, a review appraisal report on the subject property resulted in an estimated value of \$345,000.00
11. That Respondent failed to submit a response to the Oklahoma Real Estate Appraiser Board when notified of the complaint.
12. That the series of intentional inaccuracies and omissions were for the purpose of deriving a higher appraised value than what the property was worth.

**CONCLUSIONS OF LAW**  
**WITH RESPECT TO COMPLAINT NUMBER 02-019**

1. That Respondent has violated 59 O.S. § 858-723(A)(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."
2. That Respondent has violated 59 O.S. § 858-723(A)(6) through 59 O.S. § 858-726, in that Respondent violated:
  - a. The Conduct Section of the Ethics Rule of the 2002 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP 2002);
  - b. The Competency Rule, USPAP 2002;
  - c. Standard 1 and Standards Rules (SR) 1-1(a), 1-1(b), and 1-1(c), USPAP 2002;
  - d. Standard 2 and SR 2-1(a), and 2-2(b) USPAP 2002;
3. That Respondent has violated 59 O.S. § 858-723(A)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."
4. That Respondent has violated 59 O.S. § 858-723(A)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."
5. That Respondent has violated 59 O.S. § 858-723(A)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act."
6. That Respondent has violated 59 O.S. § 858-723(A)(10): "Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal"

assignment."

7. That Respondent has violated 59 O.S. § 858-723(A)(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."

### **ORDER**

1. The Board adopts the Disciplinary Hearing Panel's Findings of Facts and Conclusions of Law as set forth above.

2. However, the Board modifies the Recommended Discipline as set forth in the Panel's Recommendations to read as follows:

- a. Respondent's license be suspended for a period of three months; and
- b. Within six (6) months from the date of this order, Respondent must successfully complete the initial seventy five (75) hours of qualifying appraisal coursework to include thirty (30) tested hours of Appraisal Principles, thirty (30) tested hours of Appraisal Practices, and the fifteen (15) hour National USPAP Course; said courses to be provided by a Board approved provider other than the provider from whom Respondent received his initial qualifying education, with copies of the certificates of course completion filed with the administrative office of the Board; and
- c. Effective on the date of this order, Respondent must be supervised in all appraisal activities by a Certified Residential or Certified General appraiser with the qualifications

and in the manner provided for by OAC 600:10-1-16, with the original Report of Supervisory Relationship (REA Form 8) filed with the administrative office of the Board.

d. Respondent shall be required to submit an appraisal log outlining the hours for each appraisal completed to the Director of the Board on REA Form 7 in the manner provided for by OAC 600:10-1-16 every 90 days beginning with the date of this order.

e. Failure to comply with the terms of the board's order will result in further disciplinary action up to and including revocation of Respondent's license.

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

**IT IS SO ORDERED** this <sup>4</sup>~~7~~th day of March, 2005.



KIM HOLLAND, CHAIRMAN



JOANNE STEVENSON, ASST ATTY GENERAL

## CERTIFICATE OF MAILING

I, George R. Stirman III, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed postage prepaid by certified mail with return receipt requested on this 7<sup>th</sup> day of March, 2005, to:

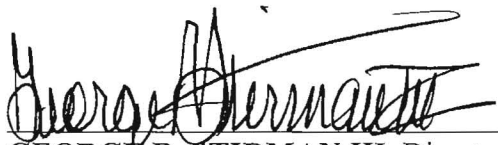
James A. Boring  
c/o David W. Kisner  
Lee, Kisner, Walker, Blevins & Miller  
The Pavilion Building, Ste 240  
6701 Broadway Extension  
Oklahoma City, OK 73116

**VIA CERTIFIED MAIL**  
7001 0320 0004 2363 7936

and that a copy was mailed via first class mail to:

Steve McCaleb, Board Prosecutor  
Derryberry Law Firm  
4040 N. Lincoln Blvd.  
Oklahoma City, OK 73105

Joann Stevenson, Board Counsel  
Assistant Attorney General  
4545 N. Lincoln Blvd, Ste 260  
Oklahoma City, OK 73105

A handwritten signature in black ink, appearing to read "George R. Stirman III", written over a horizontal line.

GEORGE R. STIRMAN III, Director  
Oklahoma Real Estate Appraiser Board