

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

IN THE MATTER OF **DENTON L. HUBBARD**)
 and **R. DEVON HUBBARD**,)
 Respondents,)
 Disciplinary Hearing)

Complaint No. 03-078

CORRECTED
BOARD'S DECISION ON DISCIPLINARY
HEARING PANEL RECOMMENDATION

ON THE 8th day of July, 2005, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel making the recommendation consisted of three members, J. Pat McGlamery, Norman J. "Jack" Houston, and Dana L. Norton. J. Pat McGlamery 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, Sue Wycoff. Respondents appeared pro se after having been mailed a copy of the Recommendation 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. Burton and Ms. Fisher recusing, having received the Hearing Panel's recommendations, makes the following Order adopting in part and amending 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 Respondent R. Devon Hubbard is a State Certified General Appraiser in the State of Oklahoma holding certificate number 10776CGA and Denton L. Hubbard is a State Certified Residential Real Estate Appraiser in the State of Oklahoma, holding certificate number 12197CRA.

FINDINGS OF FACT

WITH REGARD TO RESPONDENT DENTON L. HUBBARD

1. That on or about December 11, 2000 and April 23, 2001, Respondent Denton L. Hubbard, then a State Licensed Real Estate Appraiser, conducted two separate appraisals on the property located at 2423 East 32nd Street South, Tulsa, Oklahoma, prepared reports of those appraisals, and submitted those reports to First Integrity Mortgage Group, 11616 East 86th Street North, Owasso, Oklahoma.

2. That in the above-referenced summary appraisal reports, Respondent Denton L. Hubbard did not describe the neighborhood boundaries, misstated the character of the neighborhood, misstated the range of property values in the neighborhood, failed to mention a drainage channel dug into the garage floor to drain water through the garage, and failed to report moisture problems inside the house. This was evidenced by the uncontroverted testimony and photographs of Mr. Phil Goswick. In addition, in the two appraisal reports Respondent Denton L. Hubbard used entirely different comparable sales, none of which were the best available comparable sales.

3. That in the second appraisal report, Respondent Denton L. Hubbard included a second floor addition in the gross living area calculation that was not finished and that was virtually unreachable and unusable. This increased the gross living area of the house by almost one third, resulting in a misleading valuation. This was also evidenced by photographs in evidence and the testimony of Mr. Goswick.

4. Respondents attributed at least a portion of the inflated value to the pool and cabana, but the two different appraisal reports gave substantially different values to these contributing amenities, and still don't account for the deficiencies notes above. Respondents' argument that the upstairs space was usable as gross living area was not credible and was refuted by direct evidence.

5. That the above errors resulted in Respondent Denton L. Hubbard giving an inflated value to the subject property in both appraisal reports.

6. That the mortgage on the subject property was foreclosed on September 1, 2001, with the entire principal amount of the mortgage in arrears.

WITH REGARD TO RESPONDENT R. DEVON HUBBARD

1. That Respondent R. Devon Hubbard signed the Appraiser's Certification page on both the December, 2000 appraisal report and the April, 2001 appraisal report, as Supervisory Appraiser, thus assuming ultimate responsibility for the appraisals and the appraisal reports.

2. That the mortgage on the subject property was foreclosed on September 1, 2001, with the entire principal amount of the mortgage in arrears.

CONCLUSIONS OF LAW

That such conduct by the Respondent is in violation of the following:

1. 59 O.S. § 858-723(A) (7) and (8);
2. 59 O.S. §858-723(6) by violation of:
 - a. Conduct Section, Ethics Rule, USPAP 2002 Edition.
 - b. Standard 1 and Standards Rules 1-1(a), 1-1(b), 1-2(e), 1-4(a), and 1-4(b)ii.
 - c. Standard 2 and Standards Rules 2-1(a), 2-2(b)iii, and 2-2(b)ix.
3. 59 O.S. § 858-732A.1.

ORDER

1. Respondents styled their submission to this Board as an "application for oral argument before the board" pursuant to Board Rule OAC 600:15-1-17. However, OAC 600:15-1-17 limits oral argument by Respondents to the Recommended Discipline of the Hearing Panel. Respondents' application reads as, and their oral argument to the Board was in support of, a request or motion for rehearing by the Hearing Panel. Accordingly, the Board will initially address Respondents' request for rehearing and arguments in support thereof.

2. The Board declines Respondents' request for rehearing for the following reasons:

a. Respondents argued that they did not gather evidence to present in their defense until after the Hearing Panels' proceedings. Respondents were given sufficient notice of the proceedings before the Hearing Panel and chose not to sufficiently prepare;

b. Respondents argued that the proceedings were overwhelming and they did not anticipate how the Prosecutor would present her case to support the charges. However, Respondents acknowledge that they did not call the Board office or the Board prosecutor to inquire about the proceedings. Additionally, Respondent Denton Hubbard acknowledged that he understood the Notice of Disciplinary Proceedings and Appointment of Hearing Panel enough to return to the subject property and to determine the legitimacy of the charges contained therein; and

c. In any event, a cursory review of Respondents proffered evidence reveals it is not relevant in that does not address the central findings by the Hearing Panel regarding Respondents mischaracterization of the subject property, especially inclusion of the unfinished, awkward attic space as usable living space. Respondents wish to include evidence of the desirability of the subject property's neighborhood and comparable sales found therein, but Respondents' choice of comparables is dependent upon properly acknowledging and reporting the physical characteristics of the subject property.

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

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

WITH RESPECT TO RESPONDENT DENTON L. HUBBARD

1. That Respondent successfully complete the fifteen (15) hour National USPAP Course provided by one of the sponsoring organizations of The Appraisal Foundation, and transmit a copy of the certificate of course completion to the administrative office of the Board by no later than twelve (12)

months from the date of the Board's order, and further that this course is to be considered corrective education and may not be used as continuing education.

2. That Respondent's appraiser credential be suspended for a period of one (1) month in accordance with the Board's administrative rule OAC 600:15-1-15 entitled "Conditions during Suspension."

3. 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.

WITH RESPECT TO RESPONDENT R. DEVON HUBBARD

1. That Respondent successfully complete the fifteen (15) hour National USPAP Course provided by one of the sponsoring organizations of The Appraisal Foundation, and transmit a copy of the certificate of course completion to the administrative office of the Board by no later than twelve (12) months from the date of the Board's order, and further that this course is to be considered corrective education and may not be used as continuing education.

2. That Respondent's appraiser credential be suspended for a period of one (1) month in accordance with the Board's administrative rule OAC 600:15-1-15 entitled "Conditions during Suspension."

3. 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 RESPONDENTS THAT THEY HAVE THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED this 8th day of July, 2005.



KIM HOLLAND, CHAIRMAN



JOANN 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 16th day of August, 2005, to:

R. Devon Hubbard
11621 S 4220 Rd
Claremore, OK 74017

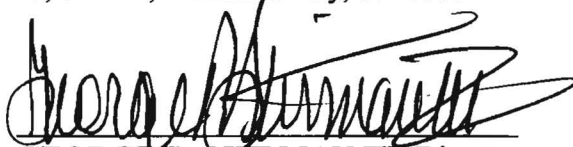
VIA CERTIFIED MAIL
7001 0320 0004 2325 2320

Denton L. Hubbard
20913 E 410 Rd
Chelsea, OK 74016

VIA CERTIFIED MAIL
7001 0320 0004 2325 2313

and that copies were mailed by first class mail to:

Sue Wycoff, Board Prosecutor, PO Box 53408, Oklahoma City, OK 73152; and
Joann Stevenson, Board Counsel, 4545 N Lincoln Blvd, Ste 260, Oklahoma City, OK 73105.


GEORGE R. STIRMAN III, Director
Real Estate Appraiser Board

0320 0004 2325 2313

7001 0320 0004 2325 2320

COMPLETE THIS SECTION

Items 1, 2, and 3. Also complete Restricted Delivery is desired. Print name and address on the reverse side. We can return the card to you. This card to the back of the mailpiece, front if space permits.

Addressed to:

R. Devon Hubbard
11621 S 4220 Rd
Claremore, OK 74017
ORDER 05-006cc REAB

COMPLETE THIS SECTION ON DELIVERY

A. Signature



☐ Agent
☐ Addressee

B. Received by (Printed Name)

Devon Hubbard

C. Date of Delivery

X

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

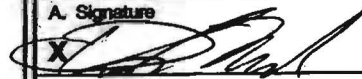
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

COMPLETE THIS SECTION ON DELIVERY

A. Signature



B. Received by (Printed Name)

C. Date

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

Number:
From service label)

7001 0320 0004 2325 2313

0320 0004 2325 2320