

Complaint #04-054

3. That the Respondent is a State Licensed Real Estate Appraiser in the State of Oklahoma holding license number 12107SLA.

FINDINGS OF FACT

1. Respondent is a state licensed real estate appraiser in the State of Oklahoma, holding license number 12107SLA.

2. First Class (hereinafter referred to as the "Client") which is located at 5558 S. 79th East Place, Tulsa, Oklahoma, hired Respondent to appraise a parcel of real estate located at 610 E. Maple, Block 14, E. ½ Lot 17 and all Lot 18, Cushing, Oklahoma 74023 (hereinafter referred to as the "Property").

3. On or about February 5, 2001, Respondent prepared an appraisal report (hereinafter referred to as the "Report") on the Property and transmitted said Report to the Client.

4. The report contained numerous errors and omissions, including but not limited to:

a. The Respondent's overall description of the Property was not complete and accurate as evidenced by the exhibits, documentary and photographic, and the testimony of Sandra Evans;

b. The Respondent's overall improvements listed on the Report were not complete and accurate as evidenced by the exhibits, documentary and photographic, and the testimony of Sandra Evans;

c. The comparables used in the analysis were not truly comparable to the subject property, representative of the subject market, and were not the best ones available as of the effective date of the appraisal as evidenced by the exhibits, documentary and photographic, and the testimony of Sandra Evans. Respondent's testimony did not refute this evidence and was not deemed credible by the panel;

d. It was not demonstrated by clear and convincing evidence that the date of sale, sale's price and sales of financing concessions for the comparables were not able to be confirmed to the data source that the Respondent indicated, in that:

e. It was not demonstrated by clear and convincing evidence that comparable two was sold for \$48,500.00 and not \$48,000.00, as listed on the Report, according to county sales records;

f. It was not demonstrated by clear and convincing evidence that comparable three was

not sold in 2000 or that its last sale was in March 15, 1994 from J. Hile and Donald Newberry to Mike and Rhonda Queen for \$20,000.00. On April 7, 2000, or that it was quit claim deeded from Mike Queen to Rhonda K. Eberhart or that in December of 2000, it was quit claim deeded from Blaine Bowling to Rhonda K. Eberhart.

g. It was demonstrated by clear and convincing evidence that the design and the appeal were only listed as “traditional/average” in the grid on the original appraisal;

h. Comparables one and two were aluminum sided and comparable three was vinyl sided. These comparables are of superior quality to the subject. This was overwhelmingly shown by clear and convincing evidence, Respondent’s unsupported assertion to the contrary notwithstanding;

i. The subject is in fair condition and all three comparables are in average condition. This was overwhelmingly shown by clear and convincing evidence, Respondent’s unsupported assertion to the contrary notwithstanding;

j. It was not shown by clear and convincing evidence that comparable three is sixty-one years old as of the date of the original appraisal, not seventy eight years as listed in the Report;

k. Respondent inaccurately listed comparable two as having one thousand three hundred twenty (1,320) square feet, when the accurate square footage of the property is one thousand five hundred twenty (1,520) square feet, as admitted by Respondent;

l. It was not shown by clear and convincing evidence that Respondent inaccurately listed comparable three as having one thousand fifty nine (1,059) square feet, when the accurate square footage of the property is seven hundred fifty six (756) square feet;

m. As demonstrated by evidence and testimony, the individual adjustments to the comparables were not reasonable and not supported as indicated by the information on the sales comparison, which was inaccurate according to county assessor records. As a result, no adjustments were made other than condition, bath, gross living area, garage, and fireplace;

n. That the estimate of market value for the subject property was not reasonable as of the

effective date of the appraisal due to many factors including the lot size, rotting exterior wood, five layers of shingles, a leaning garage, missing exterior shingles, bowing foundation and exterior wall on the west side rotting and/or missing windows, unfinished and cracked interior ceiling, missing foundation blocks in front, sinking front entry steps, two holes into attic and utility, cracked, ruined driveway and sidewalks, commonly shared driveway and overall condition of "fair" at best. This was overwhelmingly shown by clear and convincing evidence, Respondent's unsupported assertion to the contrary notwithstanding.

5. It was shown by clear and convincing evidence that as of February 5, 2001, Respondent's appraised value of the Property resulted in a final estimate of \$45,500.00.

6. It was shown by clear and convincing evidence that on May 6, 2003, a Residential Appraisal Field Review Report of the Property was prepared by Sandra Field.

7. It was shown by clear and convincing evidence that said Residential Appraisal Field Review Report ultimately derived a current market value estimate of \$4,980.00, rounded to \$5,000.00. Said review appraisal reported that the subject Property was listed for \$5,800.00 at the time of her review appraisal.

CONCLUSIONS OF LAW

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

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) "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."

3. 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 2001 Edition of the Uniform Standards of Professional Appraisal Practice Ethics Rule;

b. The Competency Rule in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

c. Standards Rule 1 in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

d. Standards Rule 1-1(a) in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

e. Standards Rule 1-1(b) in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

f. Standards Rule 1-1(c) in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

g. Standards Rule 1-2(e) in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

h. Standards Rule 1-1(c) in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

i. Standards Rule 1-4 in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

j. Standards Rule 2 in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

k. Standards Rule 2-1 in the 2001 Edition of the Uniform Standards of Professional Appraisal Practice;

4. 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."

5. 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."

6. 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."

7. 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."

8. 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."

RECOMMENDED DISCIPLINE

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

2. That Respondent's appraiser credential be suspended for a period of sixty (60) days in accordance with the conditions of suspension specified by the Board's Administrative Rules, OAC 600:15-1-15.

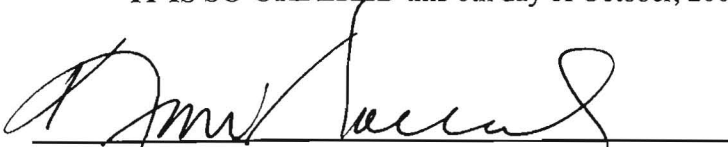
3. Following the period of suspension, Respondent shall be required to have the first thirty appraisal reports co-signed by an appraiser credentialed by the Board as a Certified Residential Appraiser or Certified General Appraiser, and a copy of each report forwarded to the Board's administrative office for review.

4. Respondent's suspension may not be lifted until Respondent successfully completes, as corrective education, the 15 hour National USPAP Course, which may not be used as continuing education,

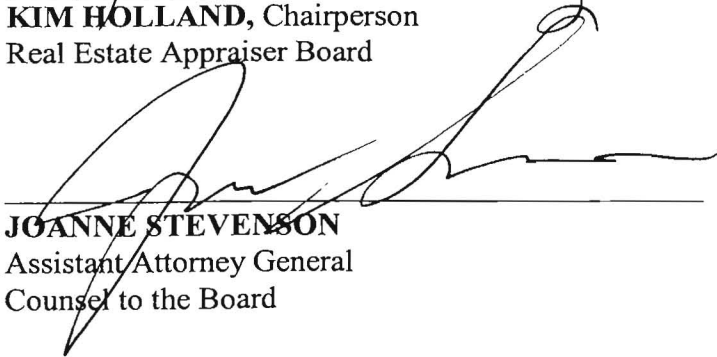
and which may not be taken as distance learning, and transmits a copy of the certificate of course completion to the Board's administrative office.

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 6th day of October, 2005.

A handwritten signature in black ink, appearing to read "Kim Holland", written over a horizontal line.

KIM HOLLAND, Chairperson
Real Estate Appraiser Board

A handwritten signature in black ink, appearing to read "Joanne Stevenson", written over a horizontal line.

JOANNE STEVENSON
Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

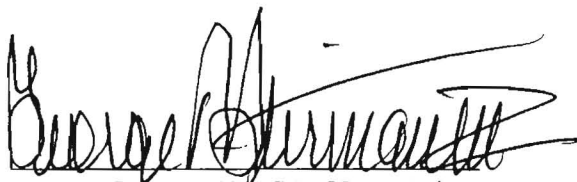
I, George R. Stirman III, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed by certified mail, return receipt requested, on the 24th day of October, 2005 to:

Christopher S. Turner
609 S. Elder Ave
Broken Arrow, OK 74012

CERTIFIED NUMBER
7001 0320 0004 0219 8311

and that copies were mailed by first class mail to:

P. Lane Wheeler, Hearing Panel Member, 812 NW 41st, d, OK 73703; Oklahoma City, OK 73118
Timothy G. Wolzen, Hearing Panel Member, PO Box 1143, Choctaw, OK 73020;
Albert A. Wooldridge, Hearing Panel Member, 804 E. Broadway, Altus, OK 73521; and
Joann Stevenson, Asst Atty General, 4545 N Lincoln Blvd, Ste 260, Oklahoma City, OK 73105.

A handwritten signature in black ink, appearing to read "George R. Stirman III", with a large, sweeping flourish extending from the end of the signature.

GEORGE R. STIRMAN III, Director
Real Estate Appraiser Board