BEFORE THE REAL ESTATE APPRAISER BOARD STATE OF OKLAHOMA

In the Matter of MARK A. TERRELL,)	
)	Complaint #10-055
Respondent.)	

BOARD'S DECISION ON DISCIPLINARY HEARING PANEL RECOMMENDATION

ON THE 1st day of April, 2011, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Board was represented by a Disciplinary Hearing Panel consisting of three members, David W. Story, John M. Travers, and Stephen C. Walton that held a hearing on February 24, 2011. Stephen C. Walton was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. The Respondent, Mark A. Terrell, appeared represented by counsel, Jack L. Freeman, after having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

A Request for Oral Argument was timely filed by Respondent, Mark A. Terrell, with oral argument presented by both sides.

The Board, being fully advised in the matter, makes the following Order adopting the Panel's Recommendation.

JURISDICTION

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

- 2. That the proceedings were conducted in accordance with the Oklahoma Certified 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 MARK A. TERRELL is a certified residential appraiser in the State of Oklahoma, holding credential number 11920CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on December 9, 1998.

FINDINGS OF FACT

The Board adopts in full the findings of the Hearing Panel that the following facts were proved by clear and convincing evidence.

- 1. That Respondent MARK A. TERRELL is a certified residential appraiser in the State of Oklahoma, holding credential number 11920CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on December 9, 1998.
- 2. On or about November 24, 1998, Respondent submitted his Application for Real Estate Appraiser Licensure or Certification to the offices of the Oklahoma Real Estate Appraiser Board, for the purpose of original licensure.
- 3. Respondent answered "no" to the questions "9. Have you ever been convicted of, pled guilty or nolo contendere to: A) A felony. B) A misdemeanor involving moral turpitude."
- 4. On or about February 20, 2004, Respondent submitted his Application for Real Estate Appraiser Licensure or Certification to the offices of the Oklahoma Real Estate Appraiser Board, for the purpose of upgrading his license.
- 5. Respondent answered "no" to the questions "12. Have you ever been convicted of, pled guilty or nolo contendere to: A) A felony. B) A misdemeanor involving moral turpitude."

- 6. However, on February 21, 1989, Respondent pled guilty to the felony charge of Using a False & Fictitious Social Security Number in an Application for an Oklahoma Drivers Chauffer License. This plea occurred in Oklahoma County, case number CRF-88-5347.
- 7. The Respondent admitted that he did not keep any records of his criminal felony case, Oklahoma County District Court Case Number CF-1988-5347, did not remember the name of his attorney in that case, and that he did not seek any legal advice before he completed his application for Board licensure or for upgrade for his Board licensure. When questioned as to what proof he had of legal advice he received from his criminal attorney on the felony charge of Using a False & Fictitious Social Security Number in an Application for an Oklahoma Drivers Chauffer License, he effectively said he had none and that "you just have to take my word for it."

CONCLUSIONS OF LAW

The Board adopts in full the conclusions of law entered by the Hearing Panel:

59 O.S. § 858-723(C)(1) [previously codified as 59 O.S. § 858-723(A)(1)]: "Procuring or attempting to procure a certificate by knowingly making a false statement, knowingly submitting false information, refusing to provide complete information in response to an application for certification or through any form of fraud or misrepresentation."

RECOMMENDED DISCIPLINE

WHEREFORE, the Board having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets for the following Final Order amending the Recommendation of the Hearing Panel.

1. Respondent's appraisal credential shall be suspended for a period of sixty (60) days. Pursuant to Board Rules at 600:15-1-15, promptly following the Final Order of suspension, the suspended appraiser shall return his original license and pocket card to the office of Board staff. The

sixty (60) day term of suspension shall begin on the date the license and pocket card are received by the Director.

2. That Respondent shall pay costs in the amount expended by the Board for prosecution of this matter. The Board's Director shall furnish Respondent with an itemized statement of such costs as soon as possible following issuance of the final Board Order in this matter. Costs shall be remitted within ninety (90) days of the effective date of this Order.

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 1st day of April, 2011.

CONTROL BUILDING

SHANNON N. GABBERT, Board Secretary

BRYAN NEAL, Assistant Attorney General

Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the day of April, 2011 a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail by certified mail, return receipt requested to:

Jack L. Freeman

7010 3090 0000 3334 8698

2500 S. Broadway, Suite 100 Edmond, Oklahoma 73013 Counsel for Respondent

and that copies were forwarded by first class mail to the following:

David W. Story, Hearing Panel Officer P.O. Box 985 Woodward, Oklahoma 73802

John M. Travers, Hearing Panel Officer 9028 S. Norwood Avenue Tulsa, Oklahoma 74137

Stephen C. Walton, Hearing Panel Officer 8282 S. Memorial, Suite 201 Tulsa, Oklahoma 74133

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Christine McEntire