

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

In the Matter of **JEREMY E. MCMILLAN**,    )  
  )  
Respondent.                                    )   Complaint #10-034

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

**ON THE** 3rd day of June, 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, Nena W. Henderson, Terry L. Hinkle, and N. Jack Houston. N. Jack Houston 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, Jeremy E. McMillan, did not appear, but was represented by counsel, Ami Fuchs Shaffer, 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 Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, being fully advised in the matter, and after hearing oral argument, 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 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 Jeremy E. McMillan (the “Respondent”) is a state certified residential appraiser in the State of Oklahoma, holding license number 12732CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on May 15, 2007.

### **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 Jeremy E. McMillan is a state certified residential appraiser in the State of Oklahoma, holding license number 12732CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on May 15, 2007.

2. That testimony showed that Respondent refused to accept certified mail containing the original grievance even after being notified by telephone by Board Legal Secretary Christine McEntire that it had been mailed to him. Respondent chose not to respond to the grievance according to Ms. McEntire. The Respondent, who was not present for the hearing, was represented by his legal counsel, Ami Shaffer, Esq.

3. That on or about October 29, 2009, Pyramid Real Estate Services, LLC (the “client”) hired Respondent to complete an appraisal on the subject property (the “appraisal”) which is located at 905 Sky Harbor Circle, Miami, Oklahoma (the “subject property”).

4. That the appraisal’s date of appraised value was reported as November 3, 2009. Respondent reported a final estimate of value as One Hundred Twelve Thousand Dollars and 00/100 (\$112,000). The property assignment was for a real estate owned property. The report was submitted to the client.

5. That on December 11, 2009, after this appraisal, the property was put on the market and listed for One Hundred Twelve Thousand Dollars and 00/100 (\$112,000); the list price was reduced to One Hundred Thousand Eight Hundred Dollars and 00/100 (\$100,800) on January 12, 2010; to Eighty Nine Thousand Six Hundred Dollars and 00/100 (\$89,600) on February 9, 2010; to Seventy Eight Thousand Four Hundred Dollars and 00/100 (\$78,400) on April 13, 2010; to Forty One Thousand Three Hundred Dollars and 00/100 (\$41,300) on May 4, 2010; and to Thirty Five Thousand Four Hundred Dollars and 00/100 (\$35,400) on May 11, 2010. Ultimately the subject property sold for Twenty Thousand Seven Hundred Fifty Dollars and 00/100 (\$20,750) on July 19, 2010.

6. That errors were committed in the report which inflated the value of the appraisal. These errors include but are not limited to the following paragraphs.

7. The comparables used in the report were not the best available, in that the comparable sales used were habitable with all mechanical systems in normal working order and with all fixtures in place per MLS reports.

8. Respondent states in his report that he was not a member of the Multi Listing Service (MLS) that serves the majority of the Miami (subject) area (Northeast Oklahoma Real Estate Services Inc.), but reports he did use Tulsa MLS as a data source. Respondent should have used the appropriate Northeast Oklahoma Real Estate Services Inc. MLS to obtain more complete sales data and to obtain geographical competency by associating with an appraiser more familiar, more competent, and more experienced in the subject area. While Respondent stated he used MLS, the sales information on the report is contradictory to MLS information.

9. Respondent incorrectly reports that comparable number one has 1,325 square feet; this does not include the upstairs area of comparable number one. Tulsa MLS, however, quotes the square footage as 2,000 square feet. Further, Respondent's photograph of comparable

number one is the wrong property. While the Respondent claims to have used Tulsa MLS as a data source, he did not report the available information in the sales grid for comparable one.

10. Respondent incorrectly reports that comparable number two has 1,494 square feet; this does not include the upstairs area of comparable number two. Tulsa MLS quotes the square footage as 2,241 square feet. Further, Respondent's photograph of comparable number two is the wrong property. While the Respondent claims to have used Tulsa MLS as a data source, he did not report the available information in the sales grid for comparable two.

11. Respondent incorrectly reported that the subject was in average condition and had new exterior paint, roof, and interior paint. In fact, the central air unit had been removed, the plumbing system was not in working condition, and there was wood rot that needed to be repaired. Additionally, the subject lacked fixtures, including but not limited to toilets, sinks, faucets, vanities, dishwasher, and kitchen sink. Accordingly, Respondent should have made condition/cost to cure adjustments on the comparable sales.

12. Respondent made other statements in his report that were contradictory. These include:

a. Respondent reported at page 3 of the Uniform Residential Appraisal Report (URAR), under Additional Comments, that the report was done in "as is" condition. However, he later reports, in the same paragraph, that he derived the "value after rehabilitation, and it is the clients [sic] responsibility to deduct ad repair costs and determine the list price." This statement contradicts the "as is" condition.

b. Respondent states at page 3 of the URAR, under Additional Comments, that all mechanical equipment and appliances are in good working condition and all plumbing components and the roof are in good condition. However, the property condition report, completed proximate in time to the appraisal, states that the plumbing system was not in working condition and the air conditioner had been removed.

Additionally, the Respondent's own photographs show rotted wood, no fixtures, no sinks, no vanities, no appliances, and water stains on interior ceilings.

13. That Respondent's appraisal report states, in the Appraiser's Certification, that the appraisal was developed and the report prepared in conformity with the Uniform Standards of Professional Appraisal Practice.

### CONCLUSIONS OF LAW

The Board adopts in full the conclusions of the hearing panel set out below:

1. That Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858-726, in that Respondent violated:

a. The Conduct and Management Sections 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. Standards Rules 1, 1-1, 1-2, 1-4, 1-6, 2, 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)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

4. That Respondent has violated 59 O.S. § 858-723(C)(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."

### **FINAL ORDER**

**WHEREFORE**, the Board, having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets out the Final Order adopting in full the Recommendation of the Hearing Panel as follows:

1. Respondent's appraisal credential be **SUSPENDED** for a period of **SIX (6) MONTHS** from the date any order of the Board adopting this recommendation. Such suspension shall be as contemplated by Board Rule OAC 600:15-1-15.

2. Upon reinstatement from suspension, Respondent shall undergo a period of probation for a period of **TWELVE (12) MONTHS**. During the period of probation, Respondent shall prepare and forward a log of all appraisal assignments on Board form REA-3. Log forms shall be transmitted to arrive in the administrative office of the Board not later than the 5th day of each month and shall contain all assignments during the previous month. The Board's staff may select work product from said logs and request Respondent to forward the appraisal report or the work file for review for USPAP compliance.

3. Respondent shall pay an administrative fine in the amount of Five Hundred Dollars (\$500.00), with payment of such fine in the manner contemplated by 59 O.S. § 858-723 (B) (2) and (4).

4. Respondent shall reimburse the Board for the amounts expended for prosecution of this matter. The Board's Director shall furnish Respondent an itemized statement of such expenses with ten (10) days following issuance of the final order of the Board. Payment of such costs shall be made in the manner contemplated by 59 O.S. § 858-723 (B) (2) and (4).

5. That Respondent may not reinstate his credential until he successfully completes the following corrective education:

- **FIFTEEN (15) HOURS** National USPAP Course, Course #600; and

Respondent shall complete the following corrective education course within one year from the date of any order of the Board adopting this recommendation:

- **THIRTY (30) HOURS** of Residential Sales Comparison and Income Approaches, Course #613.

All courses must be completed with copies of the certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of any Board order accepting this recommendation. The courses must be tested, and must be live courses, attended in-person by Respondent (not distance and/or correspondence courses). Corrective education taken to satisfy these requirements shall not be used as continuing education required for credential renewal.

6. Failure by Respondent to comply with any requirement of this order shall result in his appraisal credential being suspended instantaneously, with notification forwarded immediately to Respondent by Certified Mail, return receipt requested.

**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 3rd day of June, 2011.



By: *Shannon G. Gabbert*  
**SHANNON GABBERT**, Board Secretary

By: *Brian Neal*  
**BRIAN NEAL**, Assistant Attorney General  
Counsel to the Board



**CERTIFICATE OF MAILING**

I, Christine McEntire, hereby certify that on the 15 day of June, 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:

**Ami Fuchs Shaffer**  
Shaffer Legal Services, PLLC  
21645 South 4110 Road  
Claremore, Oklahoma 74019

7010 3090 0000 3334 5024

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

**Nena W. Henderson, Hearing Panel Officer**  
1408 Sims Avenue  
Edmond, Oklahoma 73013

**Terry L. Hinkle, Hearing Panel Officer**  
7814 N.W. 94<sup>th</sup> Street, Suite A  
Oklahoma City, Oklahoma 73162

**Norman J. Houston, Hearing Panel Officer**  
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Christine McEntire