

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

In the Matter of HAL A. HARTSOCK and)
 JUDY K. OLIVER,)
)
 Respondents.) Complaint #10-041

**BOARD’S DECISION ON
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, Adam K. Adwon, J. Pat McGlamery, and Stephen C. Walton. 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, Hal A. Hartsock appeared pro se and the Respondent Judy K. Oliver appeared under Subpoena having entered into a Consent Order with the Board, 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 not filed by the Respondent and he did not appear at the June 3, 2011 Board meeting to provide oral argument.

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 HAL A. HARTSOCK is a certified general appraiser in the State of Oklahoma, holding credential number 11454CGA and was first licensed with the Oklahoma Real Estate Appraiser Board on April 7, 1995.

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 HAL A. HARTSOCK is a certified general appraiser in the State of Oklahoma, holding credential number 11454CGA and was first licensed with the Oklahoma Real Estate Appraiser Board on April 7, 1995.

2. On or about August 28, 2007, HBH Mortgage Group (the “client”) hired Hal Hartsock to complete an appraisal on the subject property (the “appraisal”) for a parcel of property located at Yahgnee 1 & Pt.32-11N-4E, Pottawatomie County, Oklahoma (the “subject property”).

3. The appraisal’s date of appraised value was reported as August 30, 2007. Respondent reported a final estimate of value as Eight Million Dollars and 00/100 (\$8,000,000.00). The report was submitted to the client. Said report was signed by Hal Hartsock as the “Contract Appraiser” and Judy Oliver as “Associate Appraiser.”

4. Respondent’s report was careless and vague, and left confusion as to what exactly was being appraised, resulting in a misleading report. Errors included, but are not limited to the following paragraphs 5-23.

5. The comparable sales Respondent used in his report along I-40 Service Road & Shawnee Mall Drive are considerably better locations than the subject property and were sales of small tracts, while the subject is a large acreage tract.

6. Respondent's sale #2 was reported as having 1.10 acres and reportedly sold for ten dollars (\$10.00) per square foot, while it really had 2.71 acres indicating a sales price of four dollars and six cents (\$4.06) per square foot.

7. Respondent admitted that sale five was reported as having 2.86 acres and the sales price was reported as \$4 per square foot. However, county records show that sale five was 2.87 acres and was sold with an adjoining 1.2 acre tract, totaling 4.07 acres. Respondent failed to report and/or analyze that sale five contained a 10,695 square foot motel that was in operation at the time of the Respondent's report. This affected the final estimate of value and inflated the value.

8. Respondent's sale six was reported as having 1.47 acres when it actually has 3.44 acres. This resulted in an inflated price per square foot for this sale and inflated the final estimate of market value. Respondents also reported an incorrect instrument number for sale six.

9. Respondent's sale seven was reported as having 12.1 acres when it actually was a sale of 22.1 acres. Respondents failed to report that sale seven contained an industrial building of approximately 16,892 square feet.

10. Respondent omitted a comparable sale in the report from the subject addition which should have been included. This November 17, 2005 sale (a tract consisting of lots 1,2,5,6, and 7 of the Yahgnee addition) was for 6.32 acres and sold for \$2.18 per square foot. This sale was an arms length transaction.

11. Respondent's selection of comparable sales was not in conformity with generally accepted methods and techniques.

12. Respondent failed to use comparable sales of each of the types of properties within the fifty nine (59) acres being appraised.

13. Respondent admitted that there were numerous errors throughout the written appraisal report, namely omission of a motel on comparable sale #5 and the omission of the 16, 892 square foot industrial building on comparable sale #7.

14. Respondent failed to describe and analyze the parcels of property in the fifty nine (59) acres being appraised.

15. On page 12 of Respondent's report, they write that for the "front/west portions" of the tract, 762,300 square feet is to be valued at \$8 per square foot, while the remainder, approximately 1,807,740 square feet is to be valued at \$1.06 per square foot. Respondent failed to identify anywhere in the report as to which lots or tracts are to be valued at the selected amounts per square foot. The report does not communicate to the reader the areas that are valued at the higher or lower estimate.

16. Respondent failed to mention and/or analyze two ponds and Reserve A. It is not reasonable to assume that these would bring the same price per square foot as the other tracts along the road west of the subject.

17. Since the Respondent failed to identify which tracts were valued at what square footage value, the report is misleading.

18. Respondent failed to employ recognized methods and techniques of valuing multiple parcels.

19. Respondent failed to analyze the 2006 sale of the subject property.

20. The report appears to be "as is" but does not address and/or analyze the need and/or cost to take the utilities to the east and northeastern portions of the development

21. Respondent failed to calculate the appropriate absorption rate and discount the final estimate of value accordingly.

22. Respondent describes his report as a summary appraisal report when it read more like a restricted-use report.

23. Respondent admitted that he estimated a best case "blue sky" scenario value and called that value "market value", resulting in a misleading appraisal report.

24. Respondent testified that he would not accept a similar assignment today and should not have accepted such an assignment at that time.

CONCLUSIONS OF LAW

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

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

A) The Conduct Section of the Ethics Rule of the Uniform Standards of Professional Appraisal Practice;

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;

E) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, Standard 2, and Standards Rules 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)(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."

5. 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 shall be prohibited from being a supervisor for a period of **FIVE (5) YEARS** from the date that any final order in this matter is entered.

2. Board approval for Respondent to act as an instructor shall be withdrawn for a period of **TWO (2) YEARS** from the date that any final order in this matter is entered.

3. Respondent be placed on **PROBATION** for a period of **ONE (1) YEAR** from the date any order of the Board adopting this recommendation. During this period of probation, Respondent shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth working day of each month detailing all his appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs to be sent for review.

4. Respondent shall pay the of costs expended by the Board for legal fees and travel costs not to exceed two thousand five hundred dollars (\$2,500.) The Board staff will provide a statement of the costs incurred to Respondent with the final order. Costs shall be paid in accordance with 59 O.S. § 858-723(B).

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 W. 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 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 25 day of June, 2011 to:

Hal A. Hartsock

4001 N.W. 122nd Street, #1121
Oklahoma City, Oklahoma 73120

and that copies were mailed to:

OFFICE OF THE ATTORNEY GENERAL

Attn: Bryan Neal

313 N.E. 21st Street
Oklahoma City, OK 73105

DERRYBERRY & NAIFEH, LLP

Attn: Stephen McCaleb
4800 North Lincoln Blvd.
Oklahoma City, Oklahoma 73105

Stephen C. Walton, Hearing Panel Officer

8282 S. Memorial, Suite 201
Tulsa, Oklahoma 74133

Adam K. Adwon, Hearing Panel Officer

7018 S. Sandusky
Tulsa, Oklahoma 74136

Jay P. McGlammery, Hearing Panel Officer

P.O. Box 368
Muskogee, Oklahoma 74402

Judy K. Oliver

632 Smalley Drive
Norman, Oklahoma 73071



Christine McEntire