

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

In the Matter of **TONY M. HENSLEY,**)
)
Respondent.)

Complaint # 11-003

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

ON THE 8th day of July, 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 that held a hearing on May 18, 2011. Nena W. Henderson 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, Sue Wycoff. The Respondent, Tony M. Hensley appeared pro se, 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.

No Request for Oral Argument was filed by Respondent, Tony M. Hensley, and no oral argument was presented. On June 7, 2011, the Respondent, Tony M. Hensley, filed a letter dated June 3, 2011, with the Board asking the Board to accept his resignation as a licensed/certified appraiser. At the hearing before the Board, on July 8, 2011, the Board's prosecutor, Sue Wycoff, urged the Board to reject the Respondent's request that it accept his resignation and that the Board adopt the recommendation of the Disciplinary Hearing Panel instead.

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

JURISDICTION

1. 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 Tony M. Hensley is a Certified Residential Appraiser in the State of Oklahoma, holding license number 12587CRA, and was first credential with the Oklahoma Real Estate Appraiser Board on February 14, 2003.

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 Tony. M. Hensley is a Certified Residential Appraiser in the State of Oklahoma holding license number 12587CRA.

2. That Respondent falsified his initial application for certification as a trainee appraiser in Oklahoma by not revealing on the application that in 1992 Respondent was charged with the felony of Obtaining Merchandise by Bogus Check in Case No. CF-92-3609 in Tulsa County, Oklahoma.

3. On October 9, 1992, Respondent pled guilty to the charge of Obtaining Merchandise by Bogus Check and the charge was reduced to a misdemeanor. Respondent was sentenced to one year, suspended, was fined and was ordered to pay restitution.

4. Respondent was given time to pay. However, he neither paid what he owed nor did he reappear in court, and a bench warrant was issued for his arrest. The District Attorney of Tulsa County filed an application to revoke Respondent's suspended sentence and a hearing was

held on the application. Six months of Respondent's suspended sentence was revoked and he was incarcerated. Respondent revealed none of this information on his initial application for certification as a trainee appraiser.

5. Respondent also falsified his initial application for certification as a licensed appraiser because he revealed none of the above information on that application, as well.

6. Further, Respondent falsified two separate renewal applications, the first in March 2007, and the second in March 2010, because he revealed none of the above information on the renewal applications.

7. Respondent also falsified his application for upgrade to Certified Residential Appraiser in March, 2004, because he revealed none of the above information on that application.

8. Respondent falsified his initial application for certification as a trainee appraiser, and subsequent renewals and upgrades, in two other ways, as well. Respondent answered, "yes" to the question "Have you ever been convicted of, or pled guilty or nolo contendere to: a: A felony?" However, in his letter of "explanation", Respondent wrote:

"In 1994 and just previous, I had experienced some very trying times. I had a divorce, lost my home, I was laid off at Phillips Petroleum and then on top of it my mother, whom I had taken care of for years, passed away. It was just not a very good period in my life. I was in a car, I was not driving, but I was in a car with a friend. We had been to a club and on the way home we stopped for gas. My friend was out of the car when we were approached by an officer. Since I was in the car, had been to a club, and the keys were in the ignition, I was arrested for a violation termed Actual Physical Control of a motor vehicle, meaning I had the capacity, since the keys were in the car, to have driven the car under what they termed the influence. I was not driving, but I accepted the charge.

While I never actually 'did time', meaning I was only processed through the whole procedure, it nevertheless is embarrassing."

9. Respondent falsified the application by not revealing that the felony charged was Actual Physical Control-Second Offense/Felony. (Case No. CF-94-1470, Tulsa County.) There is apparently an earlier offense of being in Actual Physical Control of an automobile while under the influence of alcohol or drugs that Respondent had not revealed in his applications, as well.

10. Respondent also falsified his initial application by telling the Board in his attached letter of “explanation” dated April 30, 2002, that he “never actually did time.” In fact, records of both the Oklahoma Supreme Court Network and the Oklahoma Department of Corrections reveal that Respondent did “do time.”

11. Respondent pled guilty to the APC-Second Offense/Felony charge and was sentenced to four years in prison on April 8, 1994. None of that sentence was suspended. Respondent asked for immediate transportation and was received into DOC custody on May 3, 1994. Respondent then began “doing time” for the APC-Second Offense/Felony crime as well as for the six months of his suspended sentence for Bogus Checks in Tulsa County District Court Case Number CF-92-3609 that was revoked. Respondent was also fined \$1,000.00 and charged the usual court assessments.

12. Respondent was released from DOC custody on November 30, 1995. He did not appear in court on July 27, 1996, as directed, for a court costs review. His debt to the court was ultimately satisfied in April, 1999, some five years after he was arrested and charged.

13. In his initial application for certification as a licensed appraiser, Respondent included a note that referred back to his letter of “explanation” wherein he falsely stated that he had not “done time” but “was actually only processed through the whole procedure”. Respondent also did not reveal that it was his second Felony charge and offense of Actual Physical Control. Respondent falsified the initial application for certification as a licensed appraiser.

14. Respondent also falsified two separate renewal applications, the first in March 2007, and the second in March 2010, in the same way.

15. And Respondent falsified his application for upgrade to Certified Residential Appraiser in March, 2004, in the same way.

16. Respondent appeared and did not contest any of the allegations of fact contained in the Notice of Hearing and Appointment of Hearing Panel. Furthermore, the Respondent volunteered, after having been placed under oath, that he had committed numerous other alcohol-related offenses that were not revealed through the Board's investigation.

17. The Respondent admitted that he was guilty and had no one to blame but himself.

18. The Respondent stated that he had no defense to offer.

CONCLUSIONS OF LAW

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

1. 59 O.S. §858-723.C. 1. "Procuring or attempting to procure a certificate pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act by knowingly making a false statement, knowingly submitting false information, refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation;"

2. 59 O.S. §858-723.C. 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;"

3. 59 O.S. §858-723.C. 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;"

4. 59 O.S. ¶858-723.C. 13. "Violating any of the provisions in the code of ethics set forth in this act;" and

5. 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."

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 be **REVOKED** without the right to reapply.
2. The Respondent be assessed an administrative fine in the amount of two thousand dollars (\$2,000.00).
3. The Respondent be assessed an amount equal to the cost to the Board of the proceedings. The Director shall provide to the Respondent, as soon as it is possible to do so, an itemized statement of the expenses incurred by the Board in prosecuting this matter.
4. Fines and costs shall be remitted by the Respondent in the manner contemplated by 59 O.S. § 858-723 (B) (2) and (4).

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 8th day of July, 2011.




SHANNON N. GABBERT, Board Secretary


BRYAN 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 Disciplinary Hearing Panel Recommendation was mailed, postage prepaid by certified mail with return receipt requested on this 3 day of July, 2011 to:

Tony M. Hensley
3509 W. 42nd Place
Tulsa, Oklahoma 74107

7010 3090 0000 3334 5208

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

Nena W. Henderson, Hearing Panel Officer
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Terry L. Hinkle, Hearing Panel Officer
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Christine McEntire