

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

In the Matter of **JEFFREY D. PHILLIPS** and                    )  
                          **ZACHARY A. PHILLIPS**                        )  
  )  
Respondents.    )  
Complaint #10-102

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

On the 4th day of November, 2011 the above-referenced matter comes on for hearing before the Oklahoma Real Appraiser Board (the "Board"). The Board was represented by a Disciplinary Hearing Panel consisting of three members, David W. Atkinson, Robb E. Glendening, and Scott C. Goforth. David W. Atkinson was elected and served as Hearing Panel Chairman at the hearing held on September 20, 2011. 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 Respondents, Jeffrey D. Phillips and Zachary A. Phillips, each 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 Appraisers 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 either Respondent and no oral argument was given. The Board, being fully advised in the matter, makes the following Order adopting in part the Panel's Recommendation.

**JURISDICTION**

1. That the OREAB has the duty to carry out the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, §§858-701, *et seq.* and to establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act.

2. That Respondent **JEFFREY D. PHILLIPS** is a Certified Residential Appraiser in the State of Oklahoma, holding credential number 12646CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on September 12, 2005.

3. That Respondent **ZACHARY A. PHILLIPS** is a Trainee Appraiser in the State of Oklahoma, holding credential number 90940TRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on November 7, 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. Respondent **JEFFREY D. PHILLIPS** is a Certified Residential Appraiser in the State of Oklahoma, holding credential number 12646CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on September 12, 2005.

2. Respondent **ZACHARY A. PHILLIPS** is a Trainee Appraiser in the State of Oklahoma, holding credential number 90940TRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on November 7, 2007.

3. On or about November 15, 2007, Estate Financial Services (the "client") hired Respondents to complete an appraisal (the "appraisal") for a property located at Route 3 Box 3500, Bartlesville, Oklahoma (the "subject property"). The Request for Appraisal form submitted to Respondents by the client estimated the value of the property to be One Hundred Fifty Eight Thousand Dollars and 00/100 (\$158,000.00).

4. The appraisal's date of appraised value was reported as November 19, 2007. Respondents reported a final estimate of value as One Hundred Fifty Eight Thousand Dollars and 00/100 (\$158,000.00). The property assignment type was for a refinance transaction. The report was signed by the Respondents and submitted to the client.

5. Neither of the Respondents are from the Bartlesville area. At the time of the report, their office was located in Guthrie, Oklahoma, and their residences were located in Norman, Oklahoma. The

Respondents listed in the report that their data source was “Observed” and that their verification source was county records. The Respondents admitted that they are not members of the Greater Tulsa Association of Realtors Multi Listing Service or the Bartlesville Association of Realtors Multi Listing Service and did not utilize that listing service. Therefore they did not become competent to complete the report. These data sources are available and are necessary to produce competent reports. Respondents committed error by not using the appropriate MLS to obtain geographical competency and this failure led to an unreliable and misleading report. The Respondents did not produce any evidence that they utilized MLS data, they claim they obtained from Kari Sloan, owner of Mosaic Valuations, in Guthrie, Oklahoma and a woman named “Lindsay” with Chinowith & Cowen Real Estate, Tulsa, Oklahoma.

6. Respondents ignored or were unable to locate better comparable sales due to lack of credible data; thus, the market value derived by the Respondents was inflated.

7. The comparables used in the report were not the best available at the time of the report and Respondents ignored better comparables available via the Greater Tulsa Association of Realtors Multi Listing Service and/or the Bartlesville Association of Realtors Multi Listing Service.

8. Respondents’ 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. It also states that the Respondent was aware of, and has access to, the necessary and appropriate public and private data sources, such as multiple listing services, for the area in which the property is located.

9. The Respondents failed to maintain their work files.

#### **CONCLUSIONS OF LAW**

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

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

A) The Ethics Rule and the Conduct and Record Keeping 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) Standard 1, Standards Rules 1-1 and 1-4, Standard 2, 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 Respondents have 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 Respondents have 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 Respondents have violated 59 O.S. § 858-723(C) (13), in that Respondents 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."

5. That Respondents have violated 59 O.S. § 858-723(C) (2) and (6), in that Respondents violated 59 O.S. § 858-729 and OAC 600:10-1-16(d).

### **FINAL ORDER**

**WHEREFORE**, the Board having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets forth the following Final Order adopting the Recommendation of the Hearing Panel in part and modifying the Recommendation as to required membership in a data service(s).

1. Each Respondent shall pay a \$500.00 fine. Said fines shall be remitted to arrive in the Board's administrative office within thirty (30) days following receipt of such itemized statement. Payment of such fines shall be made in the manner contemplated by 59 O.S. § 858-723 (B) (2) and (4).

2. Each Respondent shall be placed on probation for a period of **ONE (1) YEAR** beginning on the effective date of the Board's final order in this matter during which period each Respondent will submit a log of all of his appraisals to the administrative office of the Board not later than the fifth day of each month and will provide copies of any appraisal reports and work files upon request of the Board during the period of probation. Reports and work files will be specifically reviewed for geographical competency as to membership with the appropriate data services for each area.

3. Each Respondent shall successfully complete corrective education as set forth below. Such courses shall be completed within one (1) year following entry of any final order in this matter with certificates of course completion furnished to the administrative office of the Board. Courses shall be Board-approved courses taken from a Board-approved course provider and may be used for credit as continuing education required for credential renewal. Courses to be taken shall be as follows:

- a. Course #600 – National USPAP (15 Hours);
- b. Course #611 – Residential Market Analysis and Highest & Best Use (15 Hours).

**THE BOARD WISHES TO ADVISE THE RESPONDENTS THAT EACH ONE HAS THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.**

**IT IS SO ORDERED THIS 4<sup>th</sup> day of November, 2011.**



  
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 10<sup>th</sup> day of November, 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:

**Jeffrey D. Phillips**  
422 Willow Branch Road  
Norman, Oklahoma 73072

7010 3090 0000 3334 7363

**Zachary A. Phillips**  
333 Wichita Drive  
Norman, Oklahoma 73071

7010 3090 0000 3334 7356

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

**David W. Atkinson**  
PO Box 30156  
Midwest City, OK 73140

**Robb E. Glendenning**  
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Muskogee, OK 74403

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Christine McEntire