

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

In the Matter of MICHAEL W. BARNES)
and GENA M. TERRILL) Complaint #12-017
) Respondents.)

CONSENT ORDER FOR RESPONDENT MICHAEL W. BARNES

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, Respondent Michael W. Barnes, represented by Rachel Lawrence Mor, and enter into this Consent Order pursuant to Oklahoma Statutes Title 59 §858-700, et seq. and Oklahoma Administrative Code 600:10-1-1, et seq. All sections of this order are incorporated together.

AGREED FINDINGS OF FACT

For the purposes of entry of this Consent Order, the following facts are hereby stipulated to by the parties and adopted by the Board:

1. In November of 2007, Respondent Terrill was hired to complete an appraisal (the “appraisal”) for a property located at 921 East Highway 19, Chickasha, Oklahoma (the “subject property”), for JPMorgan Chase Bank (the “client”).
2. Terrill, who is currently inactive and has been inactive since June 30, 2011, completed and signed the report and derived an opinion of value of \$90,000.00 on the subject property.
3. Barnes’ signature was entered on the report as her supervisor, although Terrill was a State Licensed Appraiser at the time.

4. Barnes denies knowledge of or involvement with the report. Barnes states that his electronic signature was not under his personal control at the time it was affixed on the report and was done so without his knowledge.

5. The report prepared by Terrill contained errors and omissions, as follows.

6. Respondent Terrill incorrectly listed the zoning of the subject property as R-1. The correct zoning for the subject property is C-2. Consequently, the report did not provide commentary or analysis as to the effect of a residential property on a commercially zoned site and/or the impact on the highest and best use of the subject.

7. The report stated that the subject property is surrounded by other homes. However, there are commercial and industrial properties next door to the subject property and across the street from the subject property. The impact of these properties on the market value of the subject property was not addressed.

8. The comparables chosen all appear to be in neighborhoods of different appeal. The location disparity is not addressed or adjusted for in the Sales Comparison Analysis.

9. A cost to cure is provided in the reports addendum, but is not addressed or adjusted for in the sales comparison approach.

10. The 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.

AGREED CONCLUSIONS OF LAW

The Board and Michael W. Barnes consent to the following Agreed Conclusions of Law in settlement of this matter:

1. The Board has jurisdiction over this matter and Respondent pursuant to 59 O.S. §§ 858-702, 858-706 and 858-723.

2. Any Stipulation of Fact which is properly a Conclusion of Law is incorporated herein by reference and vice versa.

3. Pursuant to 59 O.S. § 858-723(A), the Board has the authority to reprimand, suspend or revoke any certificate or otherwise discipline any certificate holder for any of the grounds set forth in Section 858-723 of the Oklahoma Certified Real Estate Appraisers Act.

4. That the conduct as alleged above is in violation of the following:

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

i) Respondent Michael Barnes failure to maintain sole personal control of his signature violates the definition of signature under the Uniform Standards of Professional Appraisal Practice Ethics Rule;

ii) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;

iii) Standard 1, Standards Rules 1, 1-1, 1-2, 1-3, 1-4, and 1-6; 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.

B) That the appraisal report prepared by Terrill 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."

C) That Respondent Terrill 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."

CONSENT AGREEMENT

The Respondent, Michael W. Barnes, by affixing his signature hereto, acknowledges:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document, and
2. That Respondent possesses the following rights among others:
 - a. the right to a formal fact finding hearing before a disciplinary panel of the Board;
 - b. the right to a reasonable notice of said hearing;
 - c. the right to be represented by counsel;
 - d. the right to compel the testimony of witnesses;
 - e. the right to cross-examine witnesses against his; and
 - f. the right to obtain judicial review of the final decision of the Board.
3. The Respondent stipulates to the facts as set forth above and specifically waives his right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court.
4. The Respondent consents to the entry of this Order affecting his professional practice of real estate appraising in the State of Oklahoma.
5. The Respondent agrees and consents that this Consent Order shall not be used by him for purposes of defending any other action initiated by the Board regardless of the date of the appraisal.

6. All other original allegations in this matter are dismissed.

7. Failure to comply with any of the terms of this Consent Order may result in further disciplinary action against Respondent, including, but not limited to, the suspension or revocation of Respondent's license and/or the imposition or extension of a supervisory or probationary period.

ORDER

WHEREFORE, on the basis of the foregoing Agreed Findings of Fact and Agreed Conclusions of Law, it is ordered and that:

1. Respondent Barnes shall pay an administrative fine in the amount of One Thousand Five Hundred Dollars (\$1,500). Said fine is pursuant to 59 O.S. §858-723 and shall be paid in accordance with said section within sixty days from the entry of the Order from the Board.

DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

ACCEPTANCE BY THE BOARD

1. This Consent Order will not be submitted for Board consideration until it has been agreed to and executed by Respondent. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

2. It is hereby agreed between the parties that this Consent Order shall be presented to the Board with a recommendation of approval from the Board at the next scheduled meeting of the Board.

3. Respondent Barnes understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal disciplinary hearing on the complaint against Respondent may be conducted.

4. If the Consent Order is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Consent Order will not be regarded as evidence against him at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made from his willingness to have entered into this agreement. It is agreed that neither the presentation of the Consent Order nor the Board's consideration of the Consent Order will be deemed to have unfairly or illegally prejudiced the Board or its individual members and therefore will not be grounds for precluding the board or any individual Board member from further participation in proceedings related to the matters set forth in the Consent Order.

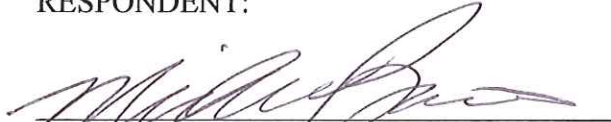
VOLUNTARY WAIVER OF RIGHTS

Respondent is fully aware of his rights to contest the charges pending against him. These rights include: representation by an attorney at his own expense; the right to a public hearing on any charges or allegations filed; the right to confront and cross-examine witnesses called to testify against him; the right to present evidence on his own behalf; the right to compulsory process to secure attendance of such witnesses; the right to testify on his on behalf; the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint and the right to obtain judicial review of the Board's decision. Respondent in exchange for the Board's acceptance of this Consent Order voluntarily waives all of these rights.


COMPLETE AGREEMENT

This Consent Order consists of 8 pages and embodies the entire agreement between the Board and Respondent. It may not be altered and modified without the express consent of the parties.

RESPONDENT:


MICHAEL W. BARNES

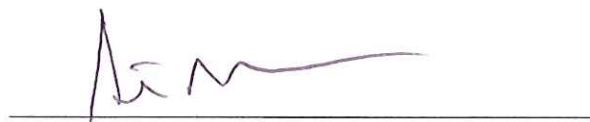
12/17/12
DATE


RACHEL LAWRENCE MOR, OBA #11400
Counsel for Michael W. Barnes

12/17/12
DATE

CERTIFICATE OF BOARD PROSECUTING ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma Real Estate Appraiser Board, the State of Oklahoma and the Respondent with regard to the violations alleged in the formal Complaint.


STEPHEN MCCAULEB, OBA #15649
Board Prosecutor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

12-28-12
DATE

IT IS SO ORDERED on this 9th day of January, 2013.



Eric M. Schoen

ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board

**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

By:

Bryan Neal

BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
2401 NW 23rd Street, Suite 28
Oklahoma City, Oklahoma 73152

CERTIFICATE OF MAILING

I, Rebecca Keesee, hereby certify that on the 14th day of January, 2013 a true and correct copy of the above and foregoing Consent Order for Respondent Michael W. Barnes was placed in the U.S. Mail by certified mail, return receipt requested to:

Rachel Lawrence Mor
3037 N.W. 63rd Street, Suite 205
Oklahoma City, Oklahoma 73116
Counsel for Respondent

7006 2760 0005 6607 4332

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

Michael W. Barnes
P.O. Box 7302
Lawton, OK 73506

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, OK 73105

Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 N. Lincoln Boulevard
Oklahoma City, OK 73105


REBECCA KEESEE