

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

In the Matter of MICHAEL DODSON,) Complaint #18-003A
Respondent.)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent MICHAEL DODSON, 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.

INTRODUCTION

On March 30, 2012, as to a Disciplinary matter concerning Respondent, this Board heard oral argument from remand of Oklahoma County Case CV-2011-56, and adopted the Order attached as Exhibit A. This became a final Order. In the Order, Respondent was put on probation for one year; to complete the fifteen hour Residential Site Evaluation and Cost Approach course and thirty hour Residential Sales Comparison and Income Approach course; and pay costs of \$1,000. Respondent complied with these penalties.

Subsequently, Respondent entered into a Consent Order (Complaints 16-031 and 16-036 attached as Exhibit B). This Consent Order called for Respondent to

complete the core curriculum education to be completed within twelve (12) months, which he did complete. He was also to be put on probation for thirty (30) months.

Based upon the probation in 16-031 and 16-036, he has six out of six passing grades since February 7, 2018.

Unrelated to the probation in 16-031 and 16-036, a complaint was filed against Respondent in this current matter. Respondent has cooperated in this current complaint (18-003A). Prior to the appraisal subject to this matter being completed (on November 7, 2017), Respondent completed 50 hours of the core curriculum needed to comply with 16-031 and 16-036, and then completed the remaining 105 hours after the appraisal subject to this matter.

Respondent has cooperated in this current matter and admits to the current allegations.

AGREED FINDINGS OF FACT

1. In November of 2017, Respondent was hired to complete an appraisal (the “appraisal”) for a property located at 5809 Kingston Road, Oklahoma City, Oklahoma 73122 (the “subject”). Respondent completed the appraisal with an effective date of November 7, 2017.

2. Respondent committed a series of errors in the report which led to a misleading and non-credible report.

GENERAL

3. The reporting option was not clearly indicated in the appraisal.

4. The Scope of work does not adequately exclude the Income Approach.

Good appraisal practice would include verbiage within an expanded Scope of Work such as "The Income Approach was not required in order to produce credible report results."

5. Listings of the Subject property were not adequately summarized. The appraisal only reported the days on market, rather than provide the list price, price revisions, etc. For example, the Subject was listed on 09/05/2017 for \$195,000, reduced to \$190,000 on 09/26/2017, contracted on 10/07/2017 while priced at \$190,000.

DESCRIPTION OF IMPROVEMENTS

6. As described further, relevant characteristics of improvements, and any effect they have on value, were not adequately described; additionally, personal property, trade fixtures or intangible items that are not real property, but included in the appraisal were not adequately described and considered in the valuation process.

7. According to the Subject's exterior photo's, the property appears to include an approximate 321 square foot family room at the rear with a shelter beneath the slab. However, there is no such disclosure or analysis made in the appraisal which would indicate if these components were present in the original

construction, or were additions. Furthermore, if these were additions, the appraisal failed to verify if they were constructed under permit.

8. According to the Subject's exterior and interior photo's, the overall construction quality appears to be more consistent with updated/upgraded Q4 rather than Q3 reported in the appraisal. The majority of homes within the subject's development exhibit exterior designs and finishes more consistent with Q4 quality.

9. According to the Subject's interior photos found in MLS, the range/oven is free standing, however the appraisal failed to note it as personal property. Although it is typical in the Subject market for free standing range/oven's to be conveyed as real property, it is good practice to disclose that the appliance is not built in.

COST APPROACH

10. As described further, the site value was not developed by an appropriate appraisal method or technique; cost estimates were not analyzed and supported; Respondent did not identify and correctly analyze depreciation items; and the Respondent did not correctly employ recognized methods and techniques.

11. The Cost Approach Site Value commentary section in the appraisal was blank, therefore excluded support for how the site value was determined.

12. The Cost Approach failed to list components such as fireplace and cellar. However there was no disclosure in the report which indicated these items were included in the \$95 per square foot base cost.

13. Construction cost and possible Functional depreciation for the cellar was not addressed in the Cost Approach. The Sales Comparison Analysis indicates the Subject's cellar contributes \$2,000, which appears to have been reasonably supported by paired sales, however, disclosing the cost to construct the cellar would have been good practice, especially if it significantly exceeds its market value.

SALES COMPARISON APPROACH

14. As described further, Respondent did not analyze comparable sales data and use appropriate appraisal methods and techniques that support his conclusions; he did not adequately collect, verify, and report comparable sales; he did not provide adequate reasoning for his adjustments, analysis, opinions and conclusions; and did not correctly employ recognized methods and techniques

15. The Sales Verification Source for the appraisal Sales was reported to have been County Assessor Data, however that source by itself is not acceptable. It is considered good practice to include additional sources such as book/page of the Warranty Deed instrument, HUD1 statement, Owner, Buyer, Agent.

16. The majority of the Sales utilized in the appraisal are located across a main East/West thoroughfare (NW 63rd St), while MLS Sales were available on the

same side of the main thoroughfare as the Subject property; this was not disclosed nor analyzed. The following are two examples of alternate sales, seemingly similar to Subject in quality/condition and with room additions or patio enclosures at the rear, like the Subject, more recent than Sale 5, which were available though not utilized nor properly eliminated from use. ML 762023; 4828 NW 62nd Ter, GLA 1972sf + 330sf Florida Rm, Built: 1965, Site: 9480sf, Shelter, Sold 05/17/2017 for \$157,500. ML 767855; 4621 NW 61st St, GLA 1909sf, Built: 1963, Site: 11,627sf, Sold 05/25/2017 for \$159,900 per MLS, \$159,000 per County Assessor.

17. The appraisal had Inadequate reasoning provided for adjustments, analysis, opinions and conclusions. For example, the appraisal lacked appropriate explanation for how the adjustments were derived, and only stated that the adjustments were made. Furthermore, the final conclusion was not adequately reconciled.

18. Regarding comparable one, the construction quality reported in the appraisal for comparable one was Q4, inferior to the Subject, however the qualities exhibited in the MLS photo's for Sale 1 appear similar to the Subject, therefore the upward \$8,400 quality adjustment was not adequately supported. The GLA reported in the appraisal for comparable one was 1,755 per square foot (MLS indicated per an appraisal), however County Assessor reported 1,735 square foot, which was not explained in the appraisal. The County Assessor reported this property sold for

\$168,000 rather than \$167,540 as reported in the appraisal and MLS.

19. Regarding comparable three, the quality and condition reported in the appraisal for Sale 3 was Q4 and C4 respectively, inferior to the Subject. However, the qualities and conditions exhibited in the MLS photo's for Sale 3 appear similar to the Subject, therefore the upward quality and condition adjustments were not adequately supported. County Assessor reported this property sold for \$175,000 rather than \$174,950 reported in the appraisal.

20. Regarding comparable four, the quality reported in the appraisal for Sale 4 was Q4. However the qualities exhibited in the MLS photo's for Sale 4 are similar to the Subject, therefore the upward quality adjustment of \$8500 was not adequately supported. County Assessor reported the GLA to have been 2017 rather than 2,098 square feet reported in the appraisal, which MLS indicated was derived from a measuring service.

21. The Subject property is older in age than any of the appraisal sales utilized, however no age adjustments were applied, nor was any explanation provided in support of the lack of age adjustments.

22. The appraised value of \$185,000 was not adequately reconciled. For example, the adjusted values of the (5) Sales utilized in the OAR ranged from \$160,300 to \$196,400, with 3 of 5 adjusting below \$180,000.

23. There were seven permits filed with the City of Oklahoma City which

were not discussed not analyzed.

INCOME APPROACH

24. The report did not have any comment which explained why the Income Approach to Value was excluded.

FINAL RECONCILIATION

25. Quality and quantity of data was not adequately reconciled.

26. Quality and quantity of data available and analyzed within the approaches used has not been inadequately reconciled. For example, there were alternate MLS Sales located within the Subject's mile section that were available though not utilized or properly eliminated from use. 34. Cost and Sales Comparison Approaches not adequately reconciled. For example, the Subject's lot value was not supported in the Cost Approach, nor was the cost of the cellar provided. If the cost to construct the cellar is significantly greater than the \$2000 contributory value reported in the OAR, then the OAR failed to analyze and adjust for functional depreciation. The majority of the OAR Sales adjusted values fell below the appraised value, not reconciled.

27. The appraisal results were not conveyed in an appropriate manner. For example, 3 of 5 Sales utilized in the appraisal received significant upward adjustments for quality; the adjustments were not adequately supported. There were a number of immediate area alternate Sales available in MLS, which appeared to be

similar to the Subject in condition and quality, however the appraisal failed to explain why such alternate sales were eliminated from use or otherwise discredited.

28. There was insufficient information reported to enable those who rely on the report to understand it properly.

29. Salient and Factual data were not adequately analyzed. For example, the appraisal failed to explain the discrepancies found between GLA and Sales Prices reported in the appraisal compared to that reported in County Assessor records.

AGREED CONCLUSIONS OF LAW

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

- A) The Ethics Rule and the Conduct Section 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, 1-2, 1-3, 1-4, 1-5, and 1-6; and 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 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."

CONSENT AGREEMENT

The Respondent, by affixing his signature hereto, acknowledges:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document.

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 him; 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. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting after receipt of the executed Order from Respondent, and notice for the Order's placement on that agenda is accepted.¹

8. All parties to this Consent Order have been represented by counsel.

9. This Consent Order may be executed in one or more counterparts, but all of such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other party, facsimile and visual digital reproductions of original signatures shall be effective the same as if they were the originals.

10. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

¹ Currently the next 2019 Board meeting is scheduled for 9:30 a.m. on April 3, 2019.

11. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

12. This Consent Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understanding, discussions, negotiations, and commitments (written or oral). This Consent Order may not be altered, amended, modified, supplemented or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

14. The Parties represent and warrant to one another that each party has authority to enter into this binding Consent Order. The OREAB represents and

warrants that the undersigned have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Consent Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

16. The parties acknowledge that they understand the provisions of this Consent Order.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent(s). It is hereby agreed between the parties that this Consent Order shall be presented to the Board with recommendation for approval of the Board at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against him/her at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made from his willingness to have entered 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.

- **THIS CONSENT ORDER IS NOT EFFECTIVE UNTIL ITS APPROVAL BY A MAJORITY OF THE BOARD AND THE APPROVED ORDER RECEIVES A SUBSEQUENT ENDORSEMENT (“SIGNATURE”) BY A REPRESENTATIVE OF THE BOARD. THE EXECUTED ORDER IS THEN SUBJECT TO A WRITTEN ANALYSIS BY THE OKLAHOMA ATTORNEY GENERAL’S OFFICE.**

ORDER

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

1. Respondent shall pay costs of Two Thousand Five Hundred Thousand Dollars (\$2,500), to be paid within thirty (30) days of the Final Order, pursuant to 59 O.S. §858-723.

2. Failure to comply the preceding paragraphs in a timely manner will result in an instanter suspension of Respondent’s license. For good cause, an extension


may be granted by the Board. An application for an Extension of Time should be filed at least five business days in advance of the Board meeting to be placed on a Board meeting agenda in advance of the deadline to comply with this Consent Order.

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.

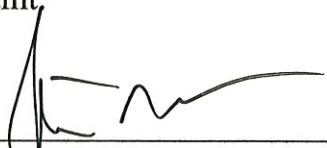
RESPONDENT:


MICHAEL DODSON


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

3-19-19

DATE

IT IS SO ORDERED on this 5th day of April, 2019.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board

**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

By:



BRYAN NEAL, OBA #6590

Assistant Attorney General

Attorney for the Board

313 NE 21st Street

Oklahoma City, Oklahoma 73105

CERTIFICATE OF MAILING

I, Kayla Dekat, hereby certify that on the 23 day of April, 2019 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

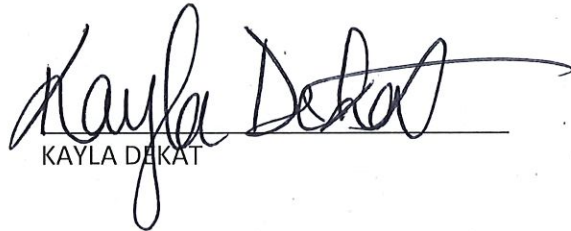
Michael D. Dodson
6309 Hyde Park Dr.
Oklahoma City, OK 73162-3214

9214 8902 0982 7500 0199 01

and by First Class Mail to:

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


KAYLA DEKAT



RECEIVED
OKLAHOMA INSURANCE DEPT.
APR 23 2019
Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2019-199A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 N.W. 56th St., Ste. 100
Oklahoma City, OK 73112

April 23, 2019

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Appraiser Board intends to take pursuant to a consent order with respect to licensee 10840CRA. The licensee performed an appraisal that failed to meet the required standards. The Board proposes to require the licensee to pay costs of \$2,500.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board "[t]o censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in [the Act,]" *see* 59 O.S.Supp.2018, § 858-706(7), and to require payment of fines and costs and the completion of educational programs. *Id.* § 858-723(A)(7)-(9). The Board may discipline licensees who "[v]iolat[e] any of the provisions in the code of ethics set forth in [the] Act." *Id.* § 858-723(C)(13). The Act requires adherence to the USPAP, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed action is necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State's policy to uphold standards of competency and professionalism among real estate appraisers.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL

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

In the Matter of **MICHAEL D. DODSON,**)
)
Respondent.)

Complaint #10-016

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

ON THE 30th day of March, 2012 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, James R. Artman, Randal M. Boevers, and Kelly R. Bridges that held a hearing on February 22, 2011. James R. Artman 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, Michael D. Dodson, appeared represented by counsel, Daniel J. Gamino 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.

Upon remand from the Oklahoma District Court Judge Bryan C. Dixon, in the Matter of Michael D. Dodson v. Oklahoma Real Estate Appraiser Board; Case No. CV-2011-56, oral argument was again presented by Daniel J. Gamino, counsel for the Respondent, and Stephen McCaleb, the Board's prosecutor. Briefs pertaining to oral argument were timely filed by both attorneys and presented to the Board for review.

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 That Respondent MICHAEL D. DODSON is a certified residential appraiser in the State of Oklahoma, holding credential number 10840CRA and was first credential with the Oklahoma Real Estate Appraiser Board on March 8, 1993.

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 MICHAEL D. DODSON is a certified residential appraiser in the State of Oklahoma, holding credential number 10840CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 8, 1993.
2. On or about November 10, 2009, MLC Mortgage Corporation (the "client") hired Respondent to complete an appraisal on the subject property (the "appraisal") which is located at 5808 Sandstage Drive, Edmond, Oklahoma (the "subject property").
3. The appraisal's date of appraised value was reported as November 11, 2009. Respondent reported a final estimate of value as Two Hundred Sixty-Two Thousand Dollars and 00/100 (\$262,000.00). The report was submitted to the client.
4. Errors were committed in the report, including but not limited to, the following contained in paragraphs 4-9.
5. Respondent failed to analyze the current listing. Neither the listing price nor days on the market were reported in the appraisal. Respondent also failed to analyze the Contract and

seller concessions (\$6,900 in improvements paid by the seller).

6. The information reported by the Respondent in the site section is not complete and accurate.

- a) The property is zoned as A, which is for single family residential in Edmond. Respondent incorrectly reported the zoning as R-1;
- b) The Respondent failed to report that there is a large oil well easement across the property on the original plat. There is a 200' building restriction from the oil well and a 300' water well restriction according to the plat. The Respondent failed to put the client on notice of these platted easements.

7. Two of the comparable sales selected by the Respondent were not locationally, physically, and functionally similar to the subject property due to their being new construction. Adjustments for age/condition were not supported or accurate.

- a) The subject is a twenty year old home on 1.8 acres. Comps 2 and 3 are new construction on small lots in neighborhoods with homeowners associations.
- b) Comparables 2 and 3, which are new construction, are in no way comparable to the subject property.

8. The data and analysis presented in the sales comparison approach is not complete and accurate.

- a) Many of the adjustments are unsupported and/or inconsistent. The adjustment for a gated community in comparable 2 is not supported.
- b) The site adjustment is not supported nor is it logical. Comparable 2 is new construction on a \$51,000 lot, the Respondent estimates the subject site at \$30,000 (while the county assessor's site value is \$75,000 plus) but makes

a \$4000 plus adjustment to Comparable 2. Comparable 3 is new construction on a \$39,000 lot and the Respondent makes a \$4000 plus adjustment. The age adjustments are unsupported with actual lot value being ignored. Respondent did not research any lot sales in comparable additions with acreage home sites or actual lot prices for the comparable sales utilized in his report.

9. Respondent's data and analysis in the cost approach is not complete and accurate.
 - a) The Respondent states that the site value is based on the county assessor data. This is not a recognized method of site valuation. (See #8 (b) above).
 - b) Regardless, the Respondent incorrectly reported the assessor's estimate of the land value, as his reported site value of \$30,000 conflicts with what is reported by the county assessor: \$75,150 (in 2010); more than double that of the Respondent's estimate that was based on the assessor data.
 - c) The reported pool house/shop contributes less than the physically depreciated value. Therefore functional obsolescence must exist with the subject property and was not reported.

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

11. The Respondent's errors in his report (omissions, unsupported adjustments, lack of adequate explanations and disclosures, etc.) result in a misleading report.

CONCLUSIONS OF LAW

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

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 Section of the Uniform Standards of Professional Appraisal Practice Ethics Rule;
- B) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;
- C) Standards Rules 1, 1-1, 1-2, 1-4, 1-5, 2 and 2-1 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."

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 adopting fully the Recommendation of the Hearing Panel.

1. Respondent shall be placed on probation for a period of one (1) year beginning on the date of receipt of the final order in this matter during which period 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.

2. Respondent be required to successfully complete corrective education as follows:

- **Course No. 612 - FIFTEEN (15) HOURS** of Residential Site Valuation and Cost Approach;
- **Course No. 613 - THIRTY (30) HOURS** of Residential Sales Comparison and Income Approaches; and

The course must be completed with a copy of the certificate 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 course must be tested. Respondent may receive credit towards the 42 hours of continuing education he is to take every three-year licensing cycle.

3. Respondent should be assessed prosecutorial costs not to exceed the amount of \$1,000; with said costs to be paid as set forth at 59 O.S. § 858-723 B;

Should Respondent fail to comply with any of the terms and conditions set forth in the order, the Board's Director shall suspend Respondent's appraiser credential instanter; shall immediately notify the Respondent of said suspension by certified mail, return receipt requested; and shall immediately notify the National Registry of such suspension; and the credential shall remain suspended until such time as Respondent is in full compliance

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 30th day of March, 2012



Handwritten signature of Christen Watson in black ink.

CHRISTEN WATSON, Board Secretary

Handwritten signature of Bryan Neal in black ink.

BRYAN NEAL, Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 6 day of April, 2012, 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:

Daniel J. Gamino

Daniel J. Gamino & Associates, P.C.
3315 N.W. 63rd Street
Oklahoma City, Oklahoma 73116
Counsel for Respondent

7010 3090 0000 3334 9565

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

James R. Artman, Hearing Panel Officer

4612 Foxbrough Court
Norman, Oklahoma 73072

Randal M. Boevers, Hearing Panel Officer

23765 White Road
Muskogee, Oklahoma 74434

Kelly R. Bridges, Hearing Panel Officer

P.O. Box 602
Elgin, Oklahoma 73538

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


Christine McEntire

((

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

In the Matter of MICHAEL DODSON,) Complaint #16-031 &16-036
Respondent.)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent MICHAEL DODSON, 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.

PROCEDURAL BACKGROUND

1. Michael Dodson (the “Respondent”) previously had Order #11-008 issued against him in 2011 relating to Complaint #10-016. (Said Order is attached as Exhibit “A.”)
2. Respondent filed a *Petition for Judicial Review and Stay* with the Oklahoma County District Court, given Case #CV-2011-560.
3. In early 2012, the District Court affirmed the Board’s Findings of Fact and Conclusions of Law, however, remanded the case back to the Board to reconsider discipline upon considering the Plaintiff’s revised *Brief on Recommended Discipline*.



4. Upon re-hearing, the Board issued Order #12-008 (Said Order is attached as Exhibit "B.") with the following discipline issued: **one year probation; 15 hour Residential Site Valuation and Cost Approach; 30 hour Residential Sales Comparison and Income Approaches; prosecutorial costs in the amount of \$1,000.**

5. This Order was also appealed by Respondent filing a *Petition for Judicial Review and Stay* with the Oklahoma County District Court, Case #CV-2013-880, which was dismissed by the District Court in April of 2014 for failure to prosecute.

FINDINGS OF FACT FOR COMPLAINT 16-031

1. In November of 2015, Michael D. Dodson accepted an appraisal assignment for an appraisal (the "appraisal") for a property located at 1928 Eagle Lane, Perry, Oklahoma (the "subject"). Respondent listed that the lender/client was Caliber Home Loans ("client"). The report was transmitted to the client, with an effective date of November 9, 2015. The Assignment Type was for a refinance transaction.

2. Respondent committed a series of errors in the report which led to a misleading and non-credible report.

3. Respondent was not geographically competent to complete the report. He is located in Oklahoma City, Oklahoma and the subject was in Perry,

Oklahoma. Respondent acknowledges in his report that "I am not a member of the local Multi-List System since I have not regularly performed appraisal work in this area so therefore may not have had access to any other sales." Respondent did not affiliate with another appraiser who was geographically competent with the subject area. Respondent represents that he was not geographically competent and has since not accepted appraisal assignments outside of his area geographical of geographical competence.

4. Respondent provides no support for the site value in the report.
5. Respondent incorrectly included the basement square footage into the total 3,600 of gross living area in the report.
6. There are no site dimensions contained within the report.
7. The comparable sales are not truly comparable.
8. The Respondent compared a 5 acre rural property in Orlando, Oklahoma to a golf course view home in Perry which is an entirely different market.
9. The Appraisal Management Company ultimately rejected the Respondent's appraisal and obtained a second appraisal. The second appraisal showed a 28,000 square foot site while the Respondent's appraisal shows 17,000.
10. The Respondent's response to the grievance reflects that he did not spend nearly enough time performing the needed due diligence to verify the data

he needed to prepare this appraisal, especially when he acknowledges that he does not have access to the local Multi Listing Service.

CONCLUSIONS OF LAW

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

A) The Ethics Rule and the Conduct Section 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, 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.

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."

FINDINGS OF FACT FOR COMPLAINT 16-036

1. In July of 2016, Michael D. Dodson accepted an appraisal assignment for an appraisal (the "appraisal") for a property located at 304 East Stroh Avenue, Okarche, Oklahoma (the "subject"). Respondent listed that the lender/client was Prosperity Bank ("client"). The report was transmitted to the client, with an effective date of July 19, 2016. The Assignment Type was for a Construction Loan.

2. Respondent committed multiple errors and deficiencies in this appraisal report which lead to a non-credible appraisal.

3. Respondent's land value is very high for Okarche, Oklahoma. Land sales in Okarche, range from \$47,000 to \$52,000 for similar locations.

4. The Respondent utilized superior comparable sales with site values ranging between \$180,000 - \$250,000, none of which are in Okarche, and all over thirty miles away.

5. Comparable #5 is listed as a million dollar sale, yet Multi Listing Services shows the list price was \$889,000.

6. In the comments, it identifies 20 additional acres that are available for sale at \$10,000 an acre. The house sold with 20 acres, but the Respondent listed it with only 5 acres.

7. The cost approach has a \$25,000 "as is" site improvement which is not understood. There is additional incorrect comparable data provided, including identification of the wrong neighborhoods; land adjustments are off-setting and do not make sense, and site adjustments were made by a percentage of the sales price which is not a valid methodology. There is a question of competency when looking at the caliber of the appraisal report.

CONCLUSIONS OF LAW

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

- A) The Ethics Rule and the Conduct Section 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, 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.

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."

CONSENT AGREEMENT

The Respondent, 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 him; 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.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

It is hereby agreed between the parties that this Consent Order shall be presented to the Board with recommendation for approval of the Board at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the Consent Order will not be regarded as evidence against him/her at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made from his willingness to have entered 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.

ORDER

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

1. Respondent shall complete all qualifying education otherwise known as the "core curriculum" which totals 200 hours of education, as currently required of an appraiser applicant for the Certified Residential appraiser credential under the Appraiser Qualification Criteria, within a twelve (12) month period. Respondent does not need to repeat the 15 hour Residential Site Valuation and Cost Approach; and 30 hour Residential Sales Comparison and Income Approaches that he took pursuant to Order #12-008. Respondent will need to keep the Board's staff apprised, via written communication, of his progress on a monthly basis and must complete half of the hours within the first six months after the Board approves the Consent Order; and

2. Respondent is placed on probation for a period of thirty (30) months from the date this Consent Order is approved by the Board. Commencing six (6) months after this Consent Order is approved by the Board, Respondent shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth day of each month, detailing his appraisal activity during the

preceding month. The Board may select and require samples of work product from these appraisal logs be sent for review.

DISCLOSURE

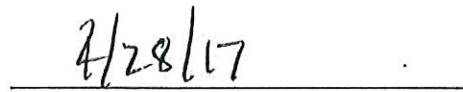
Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

FUTURE VIOLATIONS

In the event the Respondent fails to comply with any of the terms and conditions of this Consent Order, Respondent will be ordered to show cause for his failure to comply which could result in additional penalties.

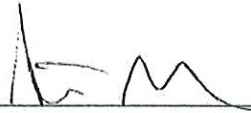
RESPONDENT:


MICHAEL DODSON


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

5-31-17

DATE

IT IS SO ORDERED on this 7th day of June, 2017.



ERIC SCHOEN, Board Secretary
Oklahoma Real Estate Appraiser Board

**OKLAHOMA REAL ESTATE
APPRAISER BOARD**

By:



BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

JUL 14 2017

Real Estate Appraiser Board
State of Oklahoma

ATTORNEY GENERAL OPINION
2017-520A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 N.W. 56th St., Ste. 100
Oklahoma City, OK 73112

July 13, 2017

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Real Estate Appraiser Board intends to take pursuant to a consent agreement with licensee 10840CRA regarding Board Complaints 16-031 and 16-036. The proposed action is to impose probation for thirty months; require completion of all 200 hours of qualifying education courses (the "core curriculum," excluding the 15-hour course in residential site valuation and cost approach and the 30-hour course in residential sales comparison and income approaches) within twelve months with half of the hours completed within the first six months; update the Board monthly on the status of completing the education courses; and, after six months of probation, submit monthly appraisal logs and any required work product samples.

On November 12, 2015, an appraisal management company filed a complaint alleging an appraisal prepared as part of a refinance transaction was deficient and stating they had to order a second appraisal from another appraiser. The licensee committed a series of errors in the report which led to a misleading and non-credible report, including but not limited to failure to be geographically competent to complete the report; failure to provide support for the site value or any site dimensions; incorrectly including basement square footage into the total gross living area; providing comparable sales that were not truly comparable; using property from an entirely different market; and failure to perform due diligence to verify data need to prepare the appraisal. In addition, an anonymous complaint was filed in July 2016, alleging an appraisal prepared as part of a refinance transaction contained multiple errors and deficiencies which led to a non-credible appraisal report, including but not limited to utilizing incorrect comparable data; using questionable and unsupported land and site adjustments; and omitting fifteen acres from the listing.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2016, §§ 858-700-858-732, authorizes the Board to discipline licensees based on "[f]ailure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal" and "[n]egligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal." 59 O.S.Supp.2016, § 858-723(C)(7-8). The Act requires adherence to the "current edition of" the Uniform Standards of

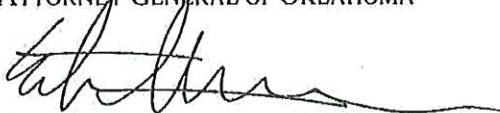
Professional Appraisal Practice ("USPAP"), which is the 2016-2017 edition. 59 O.S.2011, § 858-726.

The USPAP contains professional requirements pertaining to ethics, competency, and scope of work. *See* ETHICS RULE, USPAP-8 (requiring compliance with USPAP standards); COMPETENCY RULE, USPAP-12 (requiring appraisers to be competent to perform assignment or acquire necessary competency); and SCOPE OF WORK RULE, USPAP-14 (requiring appraiser to perform scope of work necessary to develop credible results and disclose such information in the appraisal report). USPAP also contains standards such as Standard 1, which requires the appraiser to "complete research and analyses necessary to produce a credible appraisal." USPAP-17. Components of Standard 1 clarify that this means the appraiser must employ proper valuation techniques, identify relevant characteristics of the property, avoid making unsupported assumptions when developing a market value opinion, analyze relevant factors, and reconcile data and approaches used to arrive at a value conclusion. USPAP-17, 18, 19, 20, 21. Further, Standard 2 requires that appraisal reports communicate all analyses, opinions, and conclusions clearly and accurately and to summarize the information sufficient to identify the real estate involved in the appraisal. USPAP-22. The action seeks to enforce requirements of professionalism embodied in the Act and in the USPAP. The Board may reasonably believe that the disciplinary action is necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State of Oklahoma's policy to uphold standards of competency and professionalism among real estate appraisers.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



ETHAN SHANER
DEPUTY GENERAL COUNSEL

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 14 day of July, 2017 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Michael D. Dodson
6309 Hyde Park Drive
Oklahoma City, OK 73162-3214

7016 3010 0000 2706 6841

and that copies were forwarded by first class mail, interagency mail or hand delivery to the following:

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


Christine McEntire