

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

In the Matter of WILMA S WATSON,) Complaint #17-043
Respondent.)

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent WILMA S. WATSON, by and through her attorneys of record Justin King and Heath Merchen, 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

1412 EAST 35th STREET, TULSA, OKLAHOMA

1. Respondent was assigned and completed an appraisal for a property located at 1412 East 35th Street, Tulsa, Oklahoma. The Lender/Client was Oklahoma State Bank. Respondent concluded that the Final Estimate of Value was \$277,500, with an effective date of January 15, 2016. The report listed that the property sold on January 15, 2016 for \$212,000. Respondent did not discuss nor analyze the discrepancy with the sale price and the Final Estimate of Value.

2. Respondent certified in her report that she had “no present or

prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved” and was completed in conformity with the Uniform Standards of Professional Appraisal Practice (“USPAP”).

3. Despite the certification, Respondent was acquainted with the individual, listed as the borrower/applicant in the appraisal report. The two had previously engaged in discussion to start a business.

4. Texts between Respondent and the borrower show that there was a personal interest between Respondent and the borrower. Included in their text messages is a series of texts in which Respondent asks the borrower what value he wants for the 1412 East 35th Street, Tulsa, Oklahoma, property. More specifically, Respondent texts “\$245 up to \$270 on the house on 35th is higher better (sic).” The borrower responds “You’re the appraiser. You make the decision.” Respondent then responded “No problem I will assume higher is always better for the bank.” The borrower responded “Of course.” Then Respondent responded “I have all the comps pulled and will have [employee] put the report together and I’ll review and wrap it up by Monday is that good?”

FAILURE TO INSPECT PROPERTIES

5. Respondent engaged in a pattern of completing appraisals certifying that she personally inspected properties, but had other persons personally inspect the properties. Respondent failed to identify any significant appraisal assistance in these

reports.

6. From the time period of April 1, 2016 to April 1, 2017, there were 575 appraisal assignments made in the Tulsa area from an Oklahoma appraisal management company (“AMC”). Out of the 575 appraisal assignments, Respondent received and completed 520. Between April 2, 2017 and October 19, 2017, Respondent received and completed 286 appraisal reports from the AMC.

7. Due to the large volume of assignments the Respondent received, Respondent, utilized other individuals to inspect, photograph and prepare various components of the appraisal reports. The other individuals were not licensed to appraise properties.

8. There are text messages that the Respondent exchanged with one of her workers in which she refers her to another worker in order to have her appraisal-related questions answered. There is also a text message where she texts one of her workers to ask what the value is going to be on one of her appraisals.

MORTGAGE COMPANY/LOAN OFFICER INFLUENCE

12. Respondent did appraisal work for a lender and one of the loan officers employed by said lender repeatedly attempted to influence the value of Respondent’s appraisals. Respondent did not refuse the assignments after the loan officer’s attempts to influence value.

13. For a property located at 15809 South Peoria Avenue, Tulsa,

Oklahoma, Respondent derived a Final Estimate of Value as \$633,000. The effective date of the appraisal value was February 28, 2017. On February 14, 2017, the loan officer who ordered the appraisal emailed Respondent that for this property he was “[l]ooking for a value of \$565,000 – your construction report in 2016 estimated \$540,200.00”. Respondent acknowledges though additional information was noted in the work file it should have been addressed and included in the reported dated February 28, 2017. Instead, no explanation was given as to the discrepancy with the value she determined.

14. For a property located at 6802 East 161st Street South, Bixby, Oklahoma, Respondent derived a Final Estimate of Value as \$450,000. The effective date of the appraisal value was April 10, 2017. On February 14, 2017, the loan officer who ordered the appraisal emailed Respondent that for this property he was “[l]ooking for a value of \$450,000 – your construction report in 2016 estimated \$415,400”. No explanation was given as to the discrepancy with the value she determined. Respondent acknowledges though additional information was noted in the work file it should have been addressed and included in the reported dated February 14, 2017. Instead, no explanation was given as to the discrepancy with the value Respondent determined.

RECORD KEEPING

15. There are also record keeping issues. Respondent left her files outside

of her control due to a pending divorce in which she lost possession of her work files. Respondent has made multiple efforts through the divorce proceedings to regain possession of the files, to no avail.

AGREED CONCLUSIONS OF LAW

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, the Conduct Section, and Management section of the USPAP Ethics Rule;
- B) The Competency Rule of the USPAP;
- C) The Scope of Work Rule of the USPAP;
- D) The Record Keeping Rule of the USPAP;
- E) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6; Standard 2, Standards Rules 2-1, 2-2, and 2-3 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)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

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."

6. That Respondent has violated 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."

7. That Respondent has violated 59 O.S. § 858-723(C)(6): "Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act."

CONSENT AGREEMENT

The Respondent, by affixing her signature hereto, acknowledges:

1. That Respondent has sought and received 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 her; 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 her right to contest these findings in any subsequent proceedings before the Board and to appeal this matter to the District Court. This Consent Order was entered into as a compromise of the Parties and Respondent has been cooperative and forthright during the process of reaching this Consent Order.

4. The Respondent consents to the entry of this Order affecting her professional practice of real estate appraising in the State of Oklahoma.

5. The Respondent and the Board agree and consent that this Consent Order shall not be used by either of them for purposes of initiating or defending any other action taken by the Board regardless of the date of the appraisal.

6. Except for the allegations addressed in this Consent Order, which are being hereby disposed of, all other original allegations in this matter, including each and every appraisal referenced in Agreed Findings of Fact numbers 6 and 15 in this Consent Order, are dismissed and barred from further prosecution.

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. 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.

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

10. 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

¹ Currently the next 2019 Board meeting is scheduled for 9:30 a.m. on April 5, 2019.

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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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. 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 her at the subsequent disciplinary hearing. Respondent will be free to defend themselves and no inferences will be made from her 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** agrees to a **SIX MONTH (180 day) SUPENSION**. The last ninety days will be suspended should Respondent complete the other requirements in this Consent Order prior to the expiration of the ninetieth day after the suspension takes effect.

2. **Respondent** will successfully complete, pass the test, and provide proof of completion and passing of the tests to the Board’s office for the following corrective education course, with no credit given, within 30 days from the date the Consent Order is approved by the Oklahoma Attorney General. The course to be taken is:

a) Course 600: the 15 Hour National USPAP Course.

3. **Respondent** shall pay an administrative fine in the amount of four

thousand dollar (\$4,000) fine, to be paid within ninety (90) days of the Final Order, pursuant to 59 O.S. §858-723.

4. **Respondent** shall be placed on **PROBATION** for a period of **TWELVE MONTHS** beginning immediately upon the date the suspension concludes. During the 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 (5th) working day of each month detailing all her appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs be sent for review.

5. **Respondent** shall be banned from supervising trainee appraisers for a period of **SIX MONTHS** beginning immediately upon the date her suspension is completed.

6. **Respondent**, during her suspension, shall not derive any benefit from the appraising business without first having obtained approval from the Board to do so (which such approval will not be unreasonably withheld).

7. Failure to comply the preceding paragraphs in a timely manner will result in an instant 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:


WILMA WATSON

4/9/2019
DATE


JUSTIN KING, Counsel for Respondent

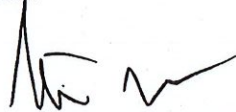
4/11/19
DATE


HEATH MERCHEN, Counsel for Respondent

4/11/2019
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

4-24-19

DATE

IT IS SO ORDERED on this 15th day of May, 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 15th day of May, 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:

Justin T. King
King Law Firm
24 NE 53rd Street
Oklahoma City, OK 73105

9214 8902 0982 7500 0207 23

Heath Merchen
24 NE 53rd Street
Oklahoma City, OK 73105

9214 8902 0982 7500 0207 30

and that copies were forwarded by first class mail 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



KAYLA DEKAT