



## FINDINGS OF FACT

The Board adopts in full the Panel's finding that the following facts were demonstrated by clear and convincing evidence, and adds an additional finding of fact as paragraph 13, as follows:

1. That on February 3, 2006, the Real Estate Appraiser Board issued a Consent Order in settlement of Complaint 04-060.

2. That the Consent Order was signed by all parties, including Respondent, and a copy was sent to Respondent through his attorney of record by certified mail, return receipt requested. The return receipt was signed February 23, 2006. A copy of the Consent Order and the signed return receipt were entered into evidence without objection as REAB #1.

3. That the Consent Order recited:

“3. That Respondent and the Board agree that Respondent will immediately upon receipt of an executed and filed copy of this Consent Agreement cease to hold himself out as a commercial appraiser or declare in any way in any medium or forum that he is competent to perform commercial appraisals. PROVIDED, that if Respondent at some later time becomes trained and certified as a general appraiser, competent to perform commercial appraisals, this last agreement, contained in this paragraph, shall cease to have any force or effect.”

4. That on or about June 23, 2006, Respondent's website carried the following information: “I have over 20 years experience in appraising Conventional and FHA residential loans as well as relocation appraisals, commercial, agricultural, industrial and special use properties.

“SPECIALITIES: Residential / Commercial and Industrial / Agricultural / Special use Properties.” Copies of relevant pages of the website, [www.themontaguecoinc.com](http://www.themontaguecoinc.com), as printed on or about June 23, 2006 were entered into evidence without objection as REAB #2. As of on or about February 15, 2007 Respondent's website continued to carry the above quoted information. See REAB #3.

5. That between the time he signed the Consent Order in February, 2006, and the time he held himself out on his website as qualified to perform commercial appraisals in June, 2006, Respondent did not become “trained and certified as a general appraiser” as set out in the Consent Order.

6. That Respondent argued that he did not believe himself to be holding himself out as a commercial appraiser as the website was not easily accessible to members of the public who did not know the

precise address. However, the evidence showed, see Resp. #1, that Respondent displayed his website address on his business card. More importantly, the language of the Consent Order was broad and unambiguous, wherein Respondent agreed and was ordered not to “hold himself out as a commercial appraiser or declare *in any way in any medium or forum that he is competent to perform commercial appraisals.*” (Emphasis supplied). The Panel finds that by stating that among one’s “Specialties” are “Commercial and Industrial” appraisals on one’s website is a clear manner of declaring in that medium or forum that one is competent to perform commercial appraisals and also constitutes holding oneself out as a commercial appraiser.

7. That the Consent Order also recited:

“2. That Respondent and the Board agree that Respondent’s license as a Certified Residential Appraiser, Number 10438CRA, shall be suspended for a period of thirty (30) days. During this thirty day period, Respondent shall not perform or sign any appraisals of appraisal reports of any kind. The thirty day period will commence on the date the Board receives Respondent’s surrendered license; Respondent shall surrender his license immediately upon receipt of this executed and filed Consent Agreement. The Board will inform Respondent of the date it receives his surrendered license. During the thirty day period the conditions set out in OAC 600:15-1-15 shall apply.”

8. That on June 15, 2006, Respondent testified under oath that he had ceased performing appraisals on February 2, 2006 and did not commence performing appraisals again until March 4, 2006. Respondent testified: “Well, first of all it was my understanding that the order, the agreement had been reached on February 2<sup>nd</sup>. At that time I ceased practicing as a real estate appraiser and did not start up again until about the 4<sup>th</sup> of March.” “I [sat] out for thirty days.” Respondent agreed in his testimony in the instant hearing that he testified in June of 2006 that he did not perform appraisals from February 2<sup>nd</sup> to the 4<sup>th</sup> of March.

9. That records obtained from the Tinker Federal Credit Union indicate that Respondent lied to the Hearing Panel in June when he testified that he “[sat] out for thirty days” and had performed no appraisals during February, 2006.

10. That a residential property located at 3002 Edgewood, Enid, Oklahoma was under contract for sale on February 2, 2006, and the sale closed on March 3, 2006; and further that an “Appraisal Request” was transmitted to Respondent on February 13, 2006 by Tinker Federal Credit Union pertaining to this transaction.

See REAB # 3.

11. That the appraisal of that property was performed by Respondent. On the appraisal report, Respondent gave the effective date of the appraisal as “2/19/06” and the date of signature and report as “February 20, 2006”; and further that this report was reviewed by the Tinker Federal Credit Union underwriter on 2/23/06; and further that Respondent communicated with the client justifying use of one of the comparables in an e-mail dated February 24, 2006. See REAB # 3. Respondent admitted under oath to performing the appraisal because Tinker Federal Credit Union was “a good client” and could not find another appraiser “on its approved list” available to do the assignment within its time constraints.

12. That Respondent’s actions show a flagrant disregard for the Board’s order and his express agreement to abide by it. Respondent’s counsel argued that the purpose of the Board’s regulatory authority is to address unscrupulous appraisers. Disregard of Board orders to avoid compliance undermines the Board’s regulatory and disciplinary authority and, if practiced repeatedly and/or by others in addition to Respondent, could render the Board’s authority meaningless and is for that reason unscrupulous.

### **CONCLUSIONS OF LAW**

That the Board adopts in full the Panel’s conclusions as follows:

1. That Respondent’s conduct, as shown by the clear and convincing evidence outlined above, violates the Agreement that he entered into with the Board and violates the resulting Consent Order of the Board.

2. That the conduct, as shown by the clear and convincing evidence outlined above displays at minimum willful disregard and at most profound contempt for the authority of the Real Estate Appraiser Board and the legitimacy of its disciplinary process, and is in violation of Title 59 Sections 858-723. A. 5 & 13; and 858-732 A. 1 & 4.

3. That ignoring Board orders and lying to the Board while under oath are hereby considered to pose a threat to the public.

4. Any Finding of Fact that is appropriately a Conclusion of Law is incorporated herein by

reference and vice versa.

**FINAL ORDER**

The Board, having adopted the Findings of Fact and Conclusions of Law as set forth above, sets forth the following final order.

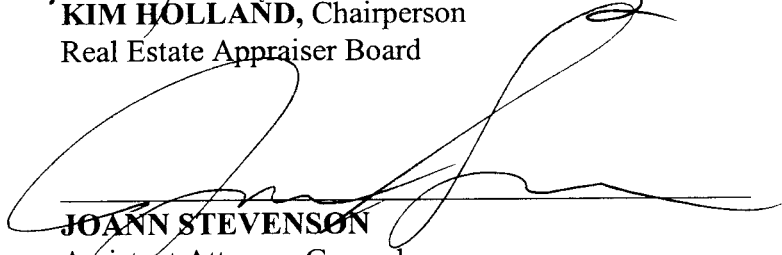
That Respondent Dan W. Montague's real estate appraiser credential be **REVOKED**.

**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 6th day of April 2007.



**KIM HOLLAND**, Chairperson  
Real Estate Appraiser Board



**JOANN STEVENSON**  
Assistant Attorney General  
Counsel to the Board

**CERTIFICATE OF MAILING**

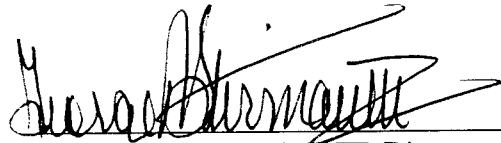
I, George R. Stirman III, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed by certified mail, return receipt requested, on the 11th day of April, 2007 to:

Dan W. Montague  
c/o James L Hankins  
Coyle Law Firm  
119 N. Robinson. Ste 320  
Oklahoma City, OK 73102

**VIA CERTIFIED MAIL**  
**7006 0100 0000 9939 4488**

and that copies were mailed via first class mail to:

Brett M. Brown, Hearing Panel Chairperson, 10409 Major Ave, Oklahoma City, OK 73120;  
C. Harley Bradshaw, Alternate Panel Member, 2533 NW 31st, Oklahoma City, OK 73112;  
Mark A. Franklin, 4334 NW Expressway, Ste 247, Oklahoma City, OK 73116;  
Moore and Vernier, Attn: Sue Wycoff, 301 NW 63rd St, Ste 550, Oklahoma City, OK 73116; and  
Joann Stevenson, Board Counsel, 313 N.E. 21st Street, Oklahoma City, OK 73105.



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