

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

IN THE MATTER OF **W. ROB HARN** and, )  
                  **D. GEOFFREY MONICAL,**                  )  
                  RESPONDENTS,                  )  
  )  
Disciplinary Hearing.                                  )

Complaint No. 06-063

**BOARD’S DECISION ON DISCIPLINARY  
HEARING PANEL RECOMMENDATION  
AS IT PERTAINS TO W. ROB HARN ONLY**

ON THE 9th day of February, 2007, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel (the "Panel") making the recommendation consisted of three members, David W. Atkinson, Randall M. Boevers, and Brett M. Brown. Brett M. Brown was elected and served as Hearing Panel Chairman. Said panel was represented by the Board’s counsel, Assistant Attorney General Joann Stevenson. The case was prosecuted by the Board’s prosecutor, Sue Wycoff. The Respondent, W. Rob Harn appeared not after having been mailed a copy of the Recommendation of the Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, being fully advised in the matter as it pertains to Respondent W. Rob Harn only, makes the following Order adopting in full the Panel’s Recommendation:

**JURISDICTION**

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*
2. That the proceedings were conducted in accordance with the Oklahoma 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 W. Rob Harn is a Trainee Real Estate Appraiser in the State of Oklahoma, holding Oklahoma Appraiser license number 90449TRA.

### FINDINGS OF FACT

The Board adopts in full the Panel's finding that the following facts with regard to Respondent W. Rob Harn were demonstrated by clear and convincing evidence, as follows:

1. That on or about February 17, 2006, Respondent Harn, whose business address is in Broken Arrow, Oklahoma, appraised the property at 1115 S. Richmond Ave. in Tulsa, Oklahoma (hereinafter "the subject property") for a lender, Pro Mortgage of 1140 S. Lynn Riggs in Claremore, Oklahoma. He valued the property at \$130,000. The resulting report was made of record, without objection from either of Respondents, as attachments to the Board's Appraiser Grievance Form as filed by board staff.

2. The resulting appraisal report, (hereinafter "the subject report") along with other reports prepared by Respondent Harn and signed by Respondent Monical for Pro Mortgage, were brought to the attention of the Oklahoma Real Estate Commission, which forwarded the reports to the offices of the Board. See OREAB Exh. #2, admitted without objection from either of the Respondents.

3. That Board staff initiated in investigation into the appraisal reports by referring the reports to certified appraisers with expertise and geographic competence with respect to the Tulsa market for review. See OREAB Exh. #2, admitted without objection from either of the Respondents.

4. That the subject report was reviewed by Dan M. Robertson, using Form REA-16, the Board's Appraisal Work Product Review Report form, in which Mr. Robertson certified that the review was in accordance with USPAP and indicated that he made an interior and exterior inspection of the subject property, made exterior inspections of the comparable sales used by Respondents, and provided interior and exterior photos of the subject and an exterior photo of the adjoining property. Mr. Robertson's report was made of record, without objection from either of Respondents, as attachments to the Board's Appraiser Grievance Form as filed by board staff.

5. Mr. Robertson pointed out several egregious errors in the subject report, including but not

limited to:

a. The appraiser's photograph of the subject property shows a "For Sale" sign of a local realtor, but Respondents do not mention the listing. A current investigation of the current MLS listing as of the date of Respondent Harn's inspection would have revealed that the subject property had been on the market since December 8, 2005 for \$89,999, and that the previous appraiser did not consider the upstairs game room as living square footage.

b. The subject report does not mention that the property adjoining the subject property is a strip commercial center site with a liquor store, a beer package store and a vacant unit. In addition, the attached photo of the property conveniently omits the adjoining property. Mr. Robertson's reports included photos of this strip commercial center site and shows that is adjoining the subject property.

c. The subject report does not make proper adjustments for the fact that the upstairs "game room" is a built-out attic with a maximum ceiling height of six feet, and this in the center of the room only. Further, the attic room was included in the gross living area despite its extreme functional problems. Mr. Robertson's report included photos of this attic room confirming the cited functional problems. Mr. Robertson noted that the listing Realtor at the date of his inspection was offering the dwelling including the game room in the square footage citing the appraiser as the reference source.

d. The subject report failed to discuss or make proper adjustments regarding the master bedroom/family room for having a seven foot ceiling and failed to make proper adjustments for or to mention that the bathroom must be accessed through the dining room and living room.

e. The subject report listed the portable dishwasher as a permanent kitchen fixture. The photo provided Mr. Robertson clearly shows a portable dishwasher on casters in the kitchen of the subject property.

f. The subject report also failed to explain why the Income Approach was not used, particularly as the subject property is likely to be a rental home.

6. Mr. Robertson pointed that the home had "major functional obsolescence" due to the family

room/master bedroom and attic game room, and external obsolescence due to the adjoining strip mall. These errors and others resulted in Respondent Harn giving a grossly inflated value to the subject property.

7. Respondent Harn admitted that he made use of Respondent Monical's electronic signature without his authorization in testimony and in certified letters, admitted without objection by either of Respondents, as OREAB Exhibits 3 and 4. Respondent Harn attributed his errors to relying on a fraudulent investor who referred him to Realtors who provided him with false MLS data, and indicated that he inspected the subject property, but stated he had not encountered some the functional problems extant in the subject property before.

8. The Panel, in evaluating the truthfulness and accuracy of the Respondent Harn's testimony, considered, among other factors, the consistency of the testimony with the documentary evidence and testimony elicited from other witnesses; the demeanor of the witness; the plausibility of the witness's version of events; and the motive or lack of motive of each witness to testify untruthfully.

9. The Panel does not credit Respondent Harn's explanation for the errors for at least the following reasons:

a. Respondent Harn has shown that his character for truthfulness and veracity are in doubt by admitting he dishonestly and fraudulently made use of Respondent Monical's signature without authorization.

b. Many of Respondent Harn's explanation are not factually plausible, e.g., he indicated he believed the subject property was "For Sale by Owner", but his photograph showed a realtor's signage, or that Respondent would not at least have a question to raise with his supervisory appraiser or another knowledgeable source regarding apparent functional problems with the subject property.

c. Respondent Harn testified that he relied on data from Realtors, but does not cite them as sources in the subject report.

d. Respondent Harn testified that he was directed not to use the income approach by the intended user, but indicates nowhere in the subject report that he was given this instruction, just stating that it

was "NA" or not applicable.

10. The Panel finds that the only reasonable inference to be drawn from Respondent Harn's errors in not investigating an apparent current listing or questioning the interior and exterior functional problems is that Respondent intended to produce an opinion of value that was dishonest, fraudulent, and/or misrepresented the true value of the subject property.

### **CONCLUSIONS OF LAW**

That the Board adopts in full the Panel's finding as follows:

1. That Respondent Harn violated 59 O.S. § 858-723(A)(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."

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

a. The Ethics Rule, Conduct Section of the 2005 Edition of the Uniform Standards of Professional Appraisal Practice;

b. The Competency Rule 2005 Edition of the Uniform Standards of Professional Appraisal Practice;

c. Standard 1 and Standards Rules 1-1(a, b, c), 1-2(e, f), 1-3(a), 1-5, 1-6, USPAP 2005 Edition;

d. Standard 2 and Standards Rules 2-1(a, b), 2-2(b)(iii, ix, x) USPAP 2005 Edition;

3. That Respondent Harn violated 59 O.S. § 858-723(A)(7): "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal."

4. That Respondent Harn violated 59 O.S. § 858-723(A)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

5. That Respondent Harn violated 59 O.S. § 858-723(A)(9): "Willfully disregarding or violating

any of the provisions of the Oklahoma Certified Real Estate Appraisers Act or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

6. That Respondent Harn violated 59 O.S. § 858-723(A)(13), in that he 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."

7. Any Finding of Fact that is appropriately a Conclusion of Law is incorporated herein by reference and vice versa.

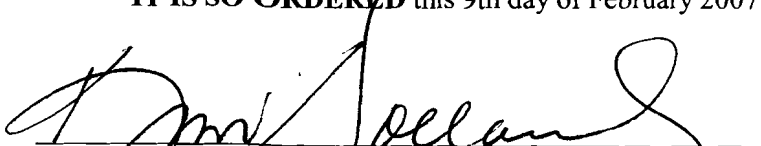
**FINAL ORDER**


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

That Respondent W. Rob Harn'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 9th day of February 2007.

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

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

CERTIFICATE OF MAILING

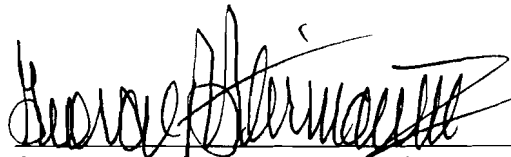
I, George R. Stirman III, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed by certified mail, return receipt requested, on the 23rd day of February, 2007 to:

W. Rob Harn  
311 N. 14<sup>th</sup> Street  
Broken Arrow, OK 74012

**VIA CERTIFIED MAIL**  
**7001 0320 0004 2329 8045**

and that copies were mailed via first class mail to:

David W. Atkinson, Hearing Panel Member, PO Box 30156, Midwest City, OK 73140  
Randall M. Boevers, Hearing Panel Member, Rt 4, Box 130, Okarche, OK 73762;  
Brett M. Brown, Hearing Panel Member, 10409 MajorAve, Oklahoma City, OK 73120;  
C. Harley Bradshaw, Alternate Panel Member, 2533 NW 31<sup>st</sup>, Oklahoma City, OK 73112;  
Moore and Vernier, Attn: Sue Wycoff, 301 NW 63<sup>rd</sup> 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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