



## **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 [redacted] is a Trainee Appraiser in the State of Oklahoma, holding certificate number [redacted] and was first licensed on [redacted].

4. Respondent James T. Shepard is a State Licensed Appraiser in the State of Oklahoma, holding certificate number 11758SLA and was first licensed on October 30, 1997.

## **FINDINGS OF FACT**

The Board adopts in full the Panel's finding that the following facts were demonstrated by clear and convincing evidence, as follows:

1. Sequoyah Mortgage (the "client") hired Respondent [redacted] to appraise a parcel of real estate located at 1604 West Tulsa Avenue, Sulphur, Oklahoma 73086 (the "subject property"). The request for appraisal from the client listed the estimated value of the property as sixty thousand dollars and no cents (\$60,000.00).

2. On or about January 9, 2006, Respondent [redacted] prepared and Respondents [redacted] and Shepard signed an appraisal report (the "report") for the subject property and transmitted said report to the client. The appraisal's effective date was reported as December 21, 2005 and derived a final estimate of value as sixty-five

thousand dollars and no cents (\$65,000.00). Respondent Shepard indicated on the report that he did not inspect the subject property.

3. On or about January 25, 2006, Argent Mortgage Company (“Argent”) hired Deanna Coley (“Coley”) to do a field review on the subject property. In its request, Argent referenced its concerns on the report as “concerned that subject and comp 3 appear older than reported and photos of subject’s exterior show deferred maintenance. Please verify exterior condition and age of subject. Also, please provide comps in neighborhood more similar in appeal.”

4. On or about January 30, 2006, Coley signed a One-Unit Appraisal Field Review Report (“review”) on the subject property with an effective date of December 25, 2005. Coley came to a conclusion that the market value of the subject property was thirteen-thousand five hundred dollars (\$13,500.00).

5. Ms. Coley expressed concern about numerous errors in the original report. Ms. Coley testified and her review concluded that:

(A) The comparable sales are superior to the overall condition of the subject by actual and effective age, quality of construction, the neighborhood of the comparables are very superior to the subject property as well as curb appeal to the typical buyer;

(B) The site dimensions for the comparable sales are incorrect;

(C) The adjustments made by the Respondents are not adequately explained and there appears to be no support for the adjustments made. Further, Respondents failed to make any adjustments to value on some of the site factors when adjustments should have been made;

(D) The effective age listed by the Respondents is incorrect;

(E) The Respondents artificially inflated the value of the property in their development of the cost approach;

(F) Respondents ignored comparable properties available to them; Respondents did not accurately describe the neighborhood boundaries; and

(G) Respondents failed to list prior sales of the subject property.

6. Ms. Coley acknowledged that she did not see the interior of the subject property to determine whether upgrades reduced the effective age of the property from its actual age of forty-two (42) years of age and the effective age estimated by Ms. Coley as indicated by the exterior deferred maintenance.

7. Ms. Coley also acknowledged limiting her selection of comparables based upon the county assessor's reported square footage of 816 square feet on instruction from her client rather than the square footage for the subject property reported by Respondents, 1204 square feet, because she was instructed by the client not to disturb the owners or tenants and, accordingly, was not able to measure the subject property.

8. Ms. Coley also excluded sales of properties for amounts exceeding \$30,000 based on her professional conclusions regarding the overall market in Sulfur, Oklahoma and knowledge and experience regarding similar rural markets. The panel was unable to independently review comparables exceeding \$30,000 to confirm Ms. Coley's impressions of the market.

9. However, the county assessor information for the subject property did reveal that the subject property and another piece of real property sold together for a price of \$32,000 approximately six (6) years prior to Respondent [redacted] appraisal of the subject property and that the county assessor valued the subject property alone at \$15,181 dollars alone at the time of the Ms. Coley's review a few weeks subsequent to Respondent

[redacted] report. This information should have called into question Respondent [redacted] valuation which was more than four (4) times as large. This information should have been disclosed and the remarkable increase in value should have explained in the report, beyond Respondent's allusion to some interior remodeling without specifying what those updates were.

10. Respondent [redacted] admitted there were errors in the report, and acknowledged that his cost approach did not account for depreciation. However, Respondent [redacted] testified that his appraisal of the subject property was only his fourth appraisal after completing his qualifying education. He indicated that Respondent Shepard never supervised him in person on assignments and only communicated with him by e-mail and telephone. Respondent [redacted] also testified that when he e-mailed the report for subject property to Respondent Shepard for review and signature, Respondent Shepard e-mailed it back a few weeks later with no changes. Respondent [redacted] testified that shortly thereafter he began seeking another supervisor. Respondent [redacted] subsequent supervisor, who began his supervision in May of 2006, testified that Respondent [redacted] appraisal of the subject property was not reflective of his subsequent work. Respondent [redacted] also acknowledged he should not have taken an assignment of this nature.

11. Ms. Coley also testified that rural markets are complex, and that Respondent Shepard should not have sent Respondent [redacted] to appraise the subject property without accompanying Respondent [redacted]. Ms. Coley also testified that, in her opinion, it was possible for an inexperienced appraiser not to have divined that the six year old sale of the subject property was of two different parcels.

12. The Panel accordingly finds that, regardless of the complexity of the market, that Respondent Shepard should not have sent Respondent [redacted] as a trainee appraiser unaccompanied on only his fourth appraisal without accompanying Respondent [redacted] and inspecting the property. Respondent Shepard did not provide Respondent [redacted] with appropriate supervision, and if he would have supervised Respondent [redacted] in accordance with Board rules, he would have encountered the errors in the report.

13. The Panel also finds, as shown by the testimony of Rod Stirman, Director of the Board, and the records of the Board, that Respondent Shepard received the original notice of hearing in this matter via certified mail return receipt requested and notice of the instant hearing, continued from the original hearing date specified in the original notice of hearing, via personal delivery, yet did not appear or offer any reason(s) for his failure to appear.

### **CONCLUSIONS OF LAW**

That the Board adopts in full the Panel's conclusions of law as follows:

That such conduct by the Respondent Shepard is in violation of:

1. 59 O.S. § 858-723(A)(6) through 59 O.S. § 858-726, in that Respondent Shepard violated:
  - (A) The Conduct, Management and Record Keeping Sections of the Uniform Standards of Professional Appraisal Practice Ethics Rule;
  - (B) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;
  - (C) Standard Rule 1 of the Uniform Standards of Professional Appraisal Practice;

- (D) Standards Rule 1-1 of the Uniform Standards of Professional Appraisal Practice;
- (E) Standards Rule 1-2 of the Uniform Standards of Professional Appraisal Practice;
- (F) Standards Rule 1-3 of the Uniform Standards of Professional Appraisal Practice;
- (G) Standards Rule 1-4 of the Uniform Standards of Professional Appraisal Practice;
- (H) Standard Rule 2 of the Uniform Standards of Professional Appraisal Practice;
- (I) Standards Rule 2-1 of the Uniform Standards of Professional Appraisal Practice;
- (J) Standards Rule 2-2(b) (viii), (ix) and (x) of the Uniform Standards of Professional Appraisal Practice;

2. 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."

3. 59 O.S. § 858-723(A)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

4. 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" by violating Board rule 600:10-1-16.

5. 59 O.S. § 858-723(A)(13), in that Respondent Shepard 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."

**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.

**With Respect to Respondent James T. Shepard:**

That Respondent James T. Shepard's appraisal credential be **REVOKED**.

**THE BOARD WISHES TO ADVISE THE RESPONDENTS THAT THEY HAVE THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.**

**IT IS SO ORDERED** this 11TH day of May 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 17th day of May, 2007 to:

James T. Shepard  
2008 Brookwood Place  
Edmond, OK 73034

**VIA CERTIFIED MAIL  
7006 0100 0000 9939 5430**

and that copies were mailed by first class mail to:

John R. Gurley, Hearing Panel Member, 2207 N. O St, Blackwell, OK 74631;  
Rusty R. Hartsell, Hearing Panel Member, PO Box 542, Weatherford, OK 73096;  
Donald H. Justice, Hearing Panel Member, PO Box 988, Watonga, OK 73772;  
Stephen L. McCaleb, Derryberry Law Firm, 4800 N. Lincoln Blvd, Oklahoma City, OK 73105; and  
Joann Stevenson, Board Counsel, 313 N.E. 21st Street, Oklahoma City, OK 73105.

and that:

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 provided to Mr. Don Smalling, Director, Anti-Fraud Division, Oklahoma Insurance Dept, for personal service on this 17th day of May, 2007 to:

James T. Shepard  
2008 Brookwood Place  
Edmond, OK 73034



**GEORGE R. STIRMAN III**, Director  
Real Estate Appraiser Board  
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