

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

In the Matter of LYNN HARRISON and)
 WILLIAM D. McCULLOUGH,)
)
Respondents.)

Complaint #06-136

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

ON THE 7th day of December, 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, Randal M. Boevers, and Stewart N. Zink. David W. Atkinson 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, Stephen L. McCaleb. Respondents Johnston 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, makes the following Order adopting in part and amending in part 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 the Respondent William D. McCullough is a Trainee Real Estate Appraiser in the State of Oklahoma holding credential number 90567TRA and further, that the Respondent Lynn Harrison is a Certified Residential Real Estate Appraiser holding credential number 12595CRA.

FINDINGS OF FACT

That the Board adopts in full the Panel's finding that the following facts were proven by clear and convincing evidence.

1. Respondent Lynn Harrison ("Harrison") is resident of the State of Arkansas. On or about July 12, 2004, Harrison obtained his credential as a Certified Residential Appraiser in the State of Oklahoma per the existing reciprocity agreement between Arkansas and Oklahoma.

2. Respondent William D. McCullough ("McCullough") is a Trainee Appraiser who, using letters of good standing from the Oklahoma Real Estate Appraiser Board, applied for and was issued a credential by the Arkansas Appraiser Licensing & Certification Board ("AALCB") on November 30, 2004. McCullough resides in the State of Oklahoma.

3. On or about November 10, 2005, a complaint was filed on the Respondents in regards to an appraisal they completed on a parcel of property located at 402 Bernard Avenue, Elaine, Arkansas, with an effective date of September 7, 2004. This appraisal was done prior to McCullough receiving his Arkansas credential. The matter for Harrison was assigned a case number of CR-0575. The matter for McCullough was assigned a case number of SR-2663.

4. A hearing on these two matters occurred on August 29, 2006. As to McCullough, the AALCB found that McCullough completed fourteen (14) appraisals in Arkansas prior to becoming credentialed, therefore, violating section 17-14-308 of the Arkansas Code. McCullough's Arkansas license was revoked and in addition he was fined a civil penalty of Fourteen Thousand and 00/100 Dollars (\$14,000.00).

5. As to Harrison, the AALCB found that he was guilty of 1) employing directly or indirectly any unlicensed person to perform any actions subject to the AALCB code; 2) the record keeping provision of the Uniform Standards of Professional Appraisal Practice Ethics Rule; 3) actions demonstrating un-trustworthiness, incompetence, dishonesty, gross negligence, material misrepresentations, fraud or unethical conduct in any dealings subject to the AALCB code; 4)

committed a substantial error of omission of commission that significantly affects an appraisal; 5) violating Standards Rule 1-1 of the Uniform Standards of Professional Appraisal Practice and 6) failed to properly attach his seal to Twenty Four (24) appraisals.

6. Although the AALCB did not find that Respondent violated the AALCB code beyond section 17-14-308 for unlicensed practice, the AALCB found that Respondent participated in producing the appraisal report on the Bernard Avenue property and Respondent testified that he gathered and analyzed the data with respect to the appraisal report on the Barnard Avenue property giving rise to the Arkansas complaint and he and Harrison were Respondents in the same proceeding defending the appraisal report on the Bernard Avenue property that was replete with errors for which Respondent Harrison was sanctioned by the AALCB. Accordingly, the Panel finds that Respondent McCullough was also responsible for the appraisal report for which Respondent Harrison was sanctioned.

CONCLUSIONS OF LAW

That the Board adopts in full the Panel's conclusion that it was proven by clear and convincing evidence that Respondent's conduct was in violation of the following:

1. That the Board has jurisdiction over both Respondents for the activities for which they were respectively sanctioned by the AALCB and that both are collaterally estopped from disputing the facts found and not appealed in the AALCB action.

2. That Respondent Harrison is no longer licensed in good standing with the AALCB and therefore is no longer eligible for licensure with the OREAB per 59 O.S. §§858-715 and 716.

3. That Respondents have 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."

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

A) The Record Keeping Section of the Uniform Standards of Professional

Appraisal Practice Ethics Rule; and

B) Standards Rule 1-1 of the Uniform Standards of Professional Appraisal Practice.

5. That Respondents have violated 59 O.S. § 858-723(A)(6): "Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Real Estate Appraisers Act."

6. That Respondents have 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."

7. That Respondents have 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."

8. That Respondents have 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."

9. That Respondents have violated 59 O.S. § 858-723(A)(10): "Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment."

10. That Respondents have violated 59 O.S. § 858-723(A)(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."

FINAL ORDER

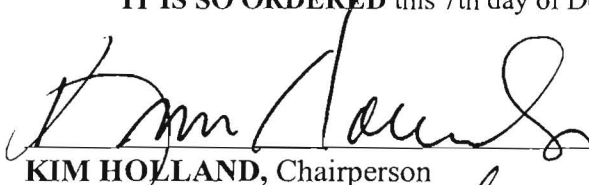
The Board, having adopted the Findings of Fact and Conclusions of Law as set forth above, sets forth the following final order:

Respondent Harrison's appraiser credential is hereby **REVOKED** without the right to reapply.

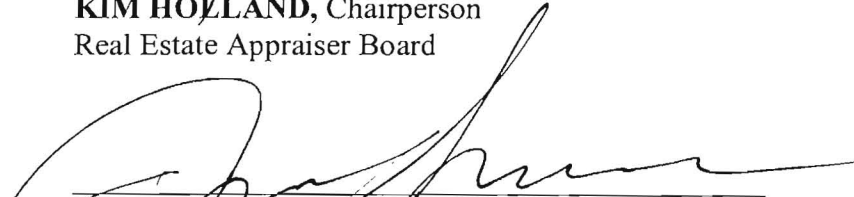
Respondent McCullough's appraiser credential is hereby **REVOKED** without the right to reapply.

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 7th day of December 2007.



KIM HOLLAND, Chairperson
Real Estate Appraiser Board



JOANN STEVENSON
Assistant Attorney General
Counsel to the Board



CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendations was mailed postage prepaid by certified mail with return receipt requested on this 19 day of December 2007 to:

William McCullough
227 Merkle Drive
Norman, Oklahoma 73069

CERTIFIED MAIL NUMBER
7002 2410 0001 7593 4012

Lynn Harrison
P. O. Box 5123
Bella Vista, Arkansas 72714

CERTIFIED MAIL NUMBER
7002 2410 0001 7593 4029

and that copies were mailed to:

Stewart N. Zink
13201 Regal Vintage Road
Oklahoma City, OK 73170

David W. Atkinson
P.O. Box 30156
Midwest City, OK 73140

Randal M. Boevers
Route 4, Box 130
Okarche, OK 73762

OFFICE OF THE ATTORNEY GENERAL
Attn: Joann Stevenson
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