

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

In the Matter of STEVE W. CAVIN,)	
)	Complaint #03-003
Respondent.)	
Disciplinary Hearing.)	

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

On the 4th day of April, 2008, 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, Patrick O. Glenn, James R. Harleson, and Nena W. Henderson. Patrick O. Glenn 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. Respondent Steven W. Cain appeared pro se, after having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Real Estate Appraiser Act, 59 O.S. Section 858-718, and the Oklahoma Administrative Procedures Act, Sections 250-323.

The Board, being fully advised in the matter, makes the following Order adopting 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 Action, 59 O.S. Section 858-700 *et seq.*

2. That the proceedings were conducted in accordance with the Oklahoma Real Estate Appraiser Act 59 O.S. Section 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S. Section 301-323.

3. That Respondent, Steven W. Cavin, was a credentialed appraiser in the State of Oklahoma, holding certificate number 11439 and was first credentialed by the Oklahoma Real Estate Appraiser Board on February 28, 1995. Respondent surrendered his credential on February 28, 2002 and has now reapplied for an appraiser credential. Respondent's letter of September 24, 2007, requested that this matter be heard.

FINDINGS OF FACT

The Board adopts in full the finding of the hearing panel that the following facts were proved by clear and convincing evidence:

1. In July of 2000, FFA Mortgage Corporation (the "client") hired Respondent to appraise a parcel of property located at Route 2, Mud Valley Road, Tahlequah, Oklahoma 74464 (the "subject property").

2. On or about July 19, 2000, Respondent prepared and signed an appraisal report (the "report") on the subject property and transmitted said report to the client. The appraisal's date of appraised value was reported as July 17, 2000, and Respondent reported a final estimate of value as One Hundred Eighty Thousand and 00/100 dollars (\$180,000.00). The report appears to be for the purpose of a refinance transaction. Said report was purportedly performed in conformity with the Uniform Standards of Professional Appraisal Practice.

3. The report was prepared "as is". In the report, Respondent describes the subject property as a new home with eight (8) rooms; four (4) bedrooms; three and one half (3.5) baths; a porch; patio; four (4) car garage and an in ground pool.

4. Beverly Jeanes, a real estate broker in Tahlequah for 15 years, testified pursuant to subpoena that she was assigned to perform a Broker's Price Opinion ("BPO") for the subject property after a foreclosure process had begun. She inspected the building and prepared the BPO in or about June of 2002. Her inspection revealed, and she took photographs to document, that the subject property was a metal pole barn building with a concrete floor. It was plumbed for water and electric and had exterior windows, but there were no walls or interior rooms. Ms. Jeanes' BPO reported that it "appears that the mortgagor intended to build it as a house but never constructed past the metal and concrete."

5. Respondent chose comparable sales which were superior to the subject. The comparables selected were complete stick-built homes with multiple elevations and apparent frame and/or brick siding.

6. Respondent admitted the factual allegations, but testified that he initially performed the appraisal approximately ninety (90) days before the effective date of his report on vacant land "subject to" plans and specifications provided by the borrower, who was a mortgage broker. He testified that later the borrower came to his office at night "nearly in tears" informing him that she reached a deadline with her financing and that she was working with a underwriter who would convert her construction financing to permanent even though the dwelling was not complete. Respondent wrote to the Board office in response to the complaint giving rise to the instant matter that the borrower told him that the subject "was 85% complete" and could close "under some special program" though not 100% complete if he would change the report to "as is." He said he confirmed with the underwriter, and changed the report to "as is" without inspecting the property to confirm completion. He testified that he "believed was helping [the borrower] and the mortgage company make a loan."

7. When pointed out to Respondent that his photographs in the report on the subject showed a structure, not vacant land, Respondent testified that he additionally visited the property near the date listed on the subject report because the borrower and mortgage broker wanted him to update his report based on additional improvements. He testified that he made no interior inspection though he visited the property and took the photographs, because he still planned to prepare the report "subject to" completion. He testified that the tearful encounter with the borrower was later than the effective date on the report and after the photographs, but that another of the "mistakes" he made was not updating the report date.

8. Respondent certified in the appraisal report that he had not "knowingly withheld any significant information from the appraisal report", that he did not base the appraisal report on "the need to approve a specific mortgage loan", and that he "personally inspected the interior and exterior areas of the subject property." Respondent admitted that these certifications were not truthful.

9. Respondent's errors artificially inflated the value of the property. The borrower's secured a \$126,000 loan on the subject property.

10. In September of 2001, a foreclosure action was initiated on the subject property stating that the principal sum of One Hundred Twenty Five Thousand, Nine Hundred Two And 26/100 Dollars (\$125,902.26) remained due and payable. On or about May 28, 2002 an order confirming a sheriff sale for the subject property for forty thousand and 00/100 dollars (\$40,000.00).

CONCLUSIONS OF LAW

The Board adopts in full the conclusion of the Hearing Panel that said conduct by the Respondent is in violation of:

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

A) The Conduct and Management Sections of the Uniform Standards of Professional Appraisal Practice Ethics Rule;

B) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;

C) Standards 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) Standards Rule 1-5 of the Uniform Standards of Professional Appraisal Practice;

I) Standards Rule 2 of the Uniform Standards of Professional Appraisal Practice;

J) Standards Rule 2-1 of the Uniform Standards of Professional Appraisal Practice.

3. That Respondent has 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 Respondent has 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."

5. That Respondent has 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."

6. That Respondent has 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."

7. That Respondent has 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."

8. That Respondent has 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 adopting in full the recommendation of the Hearing Panel:

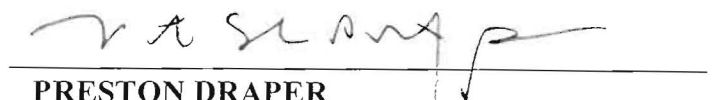
1. Respondent's application for licensure be hereby **DENIED**.

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 4 day of April, 2008.




KIM HOLLAND, Chairperson
Real Estate Appraiser Board


PRESTON DRAPER
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 Recommendation was mailed postage prepaid by certified mail with return receipt requested on this 4 day of April, 2008 to:

Steven W. Cavin
20307 S. 540 Road
Tahlequah, Oklahoma 74464

Certified Mail Receipt No.
7002 2410 0001 7592 7489

and that copies were mailed to:

Patrick O. Glenn, Hearing Panel Member
2723 N.W. 50th
Oklahoma City, Oklahoma 73112

James R. Harelson, Hearing Panel Member
P.O. Box 430
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Christine McEntire, Legal Secretary
Real Estate Appraiser Board