

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

In the Matter of **ROY B. BLACK,**)
)
Respondent.) Complaint #07-061
)
Disciplinary Hearing.)

**BOARD'S DECISION ON DISCIPLINARY
HEARING PANEL RECOMMENDATION - CORRECTED**

ON THE 9th day of January, 2009, 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, Kelly A. Davis, Mark A. Franklin, and Richard E. Grace. Richard E. Grace was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Preston S. Draper. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. The Respondent, Roy B. Black, appeared represented by counsel, Daniel J. Gamino, 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. § 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 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. 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 Roy B. Black is a Certified Residential Real Estate Appraiser in the State of Oklahoma, holding credential number 10283CRA, and was first credentialed as a state licensed appraiser on December 20, 1991

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 May of 2007, Kelly Lyles (the “client”) hired Respondent to appraise a parcel of property located at 18475 260th Street, Washington, Oklahoma 73093 (the “subject property”).

2. On or about May 15, 2007, 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 May 15, 2007, and Respondent reported a final estimate of value as Eighty Four Thousand and 00/100 dollars (\$84,000.00). Said report was purportedly performed in conformity with the Uniform Standards of Professional Appraisal Practice and was done “as is.”

3. Respondent’s report was misleading primarily in choosing comparable sales that were not truly comparable when other more comparable properties in the area were available him. His report was further misleading because Respondent failed to note that one of his chosen comparables was a modular home and that another was an A-frame style home.

4. Respondent’s report was also misleading in his failure to sufficiently explain or justify various adjustments or lack of adjustments.

5. Although he did not testify, Respondent admitted through his attorney that his appraisal report had errors that could be considered to render the report misrepresentative.

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's errors and failures constitute incompetence in appraisal practice;
2. That Respondent has violated 59 O.S. § 858-723 (C)(6) through 59 O.S. §858- 726, in

that Respondent violated:

- A) The Conduct Section 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 1-4 of the Uniform Standards of Professional Appraisal Practice;
 - G) Standards Rule 2 of the Uniform Standards of Professional Appraisal Practice;
 - H) Standards Rule 2-1 of the Uniform Standards of Professional Appraisal Practice;
- and
- I) Standards Rule 2-2 of the Uniform Standards of Professional Appraisal Practice.

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

5. That Respondent has violated 59 O.S. § 858-723(C)(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 has violated 59 O.S. § 858-723(C)(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."

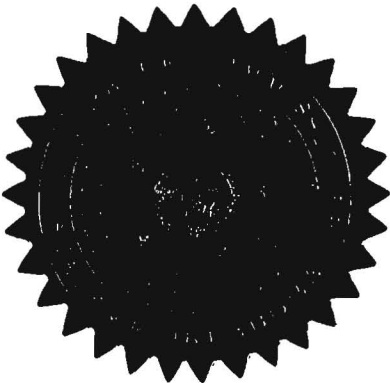
FINAL ORDER

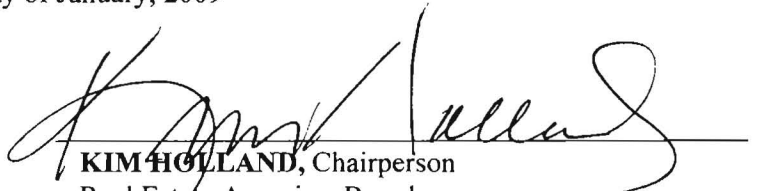
The Board, having adopted the Findings of Fact and Conclusions of Law as set forth above, sets forth the following Final Order modifying the recommendation of the Hearing Panel:


1. The Respondent is assessed a \$500.00 fine.

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 30 day of January, 2009




KIM HOLLAND, Chairperson
Real Estate Appraiser Board


BRYAN NEAL
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 February, 2009:

Roy B. Black

c/o Daniel J. Gamino

Daniel J. Gamino & Associates, P.C.

3315 NW 63rd Street

Oklahoma City, OK 73116

CERTIFIED MAIL RECEIPT

7002 2410 0001 7592 9483

and that copies were mailed to:

Kelly A. Davis, Hearing Panel Officer

117 E. Russell

El Reno, Oklahoma 73036

Richard E. Grace, Hearing Panel Officer

P.O. Box 3579

Shawnee, Oklahoma 74802

Mark Franklin, Hearing Panel Officer

4334 N.W. Expressway, Suite 247

Oklahoma City, Oklahoma 73116

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Christine McEntire, Legal Secretary
Real Estate Appraiser Board