

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

In the Matter of **TONY M. HENSLEY**,
Respondent.

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Complaint # 08-076

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

ON THE 6th day of November, 2009, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel hearing this matter consisted of three members, David S. Story, Timothy G. Wolzen, and David W. Atkinson. David W. Atkinson was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan D. Neal. The case was prosecuted by the Board's prosecutor, Sue Wycoff. The Respondent, Tony M. Hensley, 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. § 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. § 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.

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. That Respondent Tony Hensley is a Certified Residential Appraiser in the State of Oklahoma, holding certificate number 12587CRA, and was first credentialed by the Oklahoma Real Estate Appraiser Board on February 14, 2003 as a Trainee Appraiser having upgraded to his present level of licensure on April 28, 2004.

2. Respondent's attorney, Warren G. Morris, failed to appear for hearing after having confirmed his appearance telephonically with Ms. Christine McEntire of Board staff the afternoon of August 19, 2009. Mr. Morris did not notify staff that he would be unable to appear for this hearing.

3. Respondent stated on the record that he did not object to proceeding with the hearing in the absence of his attorney of record.

4. That on or about June 25, 2007, Respondent performed an appraisal of a property located at 21835 E. Horseshoe Bend Road, Park Hill, Oklahoma.

5. That in his appraisal report Respondent made a series of errors, including but not limited to those listed below.

6. Respondent chose comparable properties that were not truly comparable or should not have been used for other reasons. Sales utilized do not appear to be comparable and do not appear to be the best available comparables as confirmed by the review appraisal. Comparables provided by a reviewer, who served as a witness, were considered credible evidence that better comparables were available. Sales comparison grids from the appraisal and review, which were admitted as evidence, are attached as Exhibits A and B, and are incorporated by reference. The reviewers comparable sales were better because of :

a. Proximity to the subject property.

b. Compatibility in terms of gross living area, location, dates of sale.

c. Net and gross adjustment percentages were far less on reviewer's comps than on Respondent's comps.

d. Respondent's adjustments were unsupported and unjustified.

e. Failed to use MLS resources which were available.

f. Respondent's adjustments do not appear to have been market abstracted, appear excessive and suspect and do not appear to support Respondent's opinion of value.

g. Respondent's Sale #5 was not an arm's length transaction but rather a transfer from one person to another, then a sale by the second person to her church and a trade, with no money changing hands, from the church to yet a third person. There were three deed filings, only one of which was disclosed in Respondent's appraisal.

h. Respondent made inconsistent age adjustments to several of the comparables, without explanation as to how he arrived at the adjustment amounts. He used a different per year amount for each comparable with no explanation for doing so. His age adjustments range from \$952 per year to \$1,579 per year.

i. Two of Respondent's comparables were built into hillsides and had walk out basements. For one comparable, Respondent included the walk out basement in the gross living area (GLA) and for the other he did not.

7. These errors and others resulted in Respondent producing a misleading and confusing appraisal report and ascribing an inflated value to the subject property.

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. 59 O.S. §858-723(C) (7), "Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal report, or in communicating an appraisal".

2. 59 O.S. §858-723(C) (8), "Negligence or incompetence in developing an appraisal, preparing an appraisal report or communicating an appraisal".

3. 59 O.S. §858-723(C)(6), "Violation of any of the Standards for the development or communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act" by violation of:

a. Competency Rule, USPAP 2007 Edition;

b. Standard 1 and Standard Rules 1-1(b), 1-1(c), 1-2(e) (i), 1-4(a) USPAP 2007 Edition; and

c. Standard 2 and Standard Rules 2-1(a), 2-1(b), 2-2(b) (iii), 2-2(b) (viii) USAP 2007 Edition.

FINAL ORDER

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

1. Respondent is placed on **PROBATION** for a period of **ONE (1) YEAR** from the date of this Order of the Board. During this period of probation, Respondent shall provide an appraisal log on REA Form 3 to the administrative office of the Board no later than the fifth working day of each month detailing all his appraisal activity during the preceding month. The Board may select and require samples of work product from these appraisal logs to be sent for review.

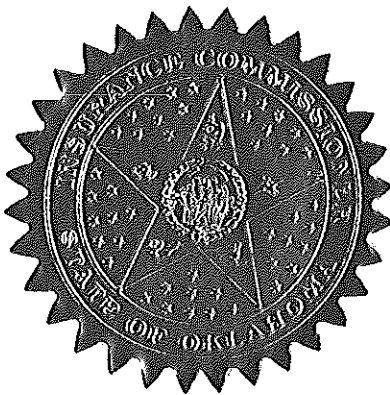
2. Respondent successfully completes corrective education as follows:
- Course number 613: Residential Sales Comparison and Income Approaches, 30 hours; and
 - Course number 614: Residential Report Writing and Case Studies, 15 hours.

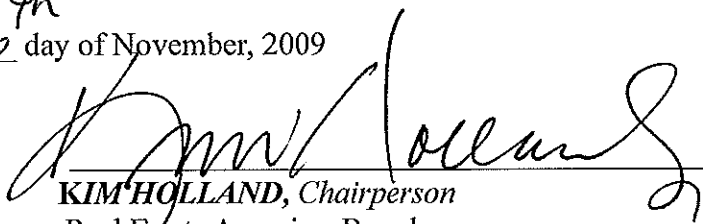
All courses must be successfully completed with copies of the certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of any Board order accepting this recommendation. The courses must be live courses, attended in-person by Respondent (not distance and/or correspondence courses).

3. Respondent shall pay a fine in the amount of five hundred dollars (\$500.00) and the payment of costs expended by the Board for legal fees and travel costs. The Board staff will provide a statement of the costs incurred to Respondent with the final order. Fines and costs shall be paid in accordance with 59 O.S. § 858-723(B).

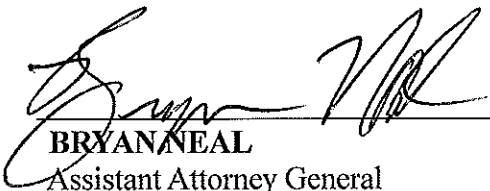
HE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED this th 6 day of November, 2009





KIM HOLLAND, Chairperson
Real Estate Appraiser Board



BRYAN NEAL
Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby confirm that a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was mailed, postage prepaid by certified mail with return receipt requested on this 17th day of November, 2009 to:

Tony Hensley
3509 West 42nd Place
Tulsa, Oklahoma 74107

7008 3230 0000 8455 3509

Warren G. Morris
2532 E. 46th Place
Tulsa, Oklahoma 74105

7008 3230 0000 8455 3516

and that copies were mailed to:

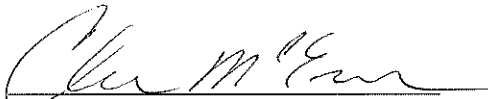
David W. Story, Hearing Panel Officer
P.O. Box 985
Woodward, Oklahoma 73802

Timothy G. Wolzen, Hearing Panel Officer
P.O. Box 1143
Choctaw, Oklahoma 73020

David W. Atkinson, Hearing Panel Officer
P.O. Box 30156
Midwest City, Oklahoma 73140

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Christine McEntire, Legal Secretary