

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

In the Matter of (a) JANET M. BRASWELL ; and)	
(b) the AMERICAN INSTITUTE OF REAL)	Complaint #10-009
ESTATE EDUCATION)	
)	
Respondents.)	

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

ON THE 5th day of November, 2010, the above numbered and entitled cause came on for hearing. The Oklahoma Real Estate Appraiser Board (the "Board") was represented by a Disciplinary Hearing Panel consisting of three members, Kelly A. Davis, Jerry L. Jones, and H.E. Ted Smith. H.E. Ted Smith was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's prosecutors, Sue Wycoff and Stephen L. McCaleb. The Respondent, Janet M. Braswell appeared in person, represented by Rachel Lawrence Mor; and the American Institute of Real Estate Education appeared in the person of its principal, Janet M. Braswell, represented by Rachel Lawrence Mor, after having been served with a copy of the Disciplinary Hearing Panel Recommendation 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 full the Panel's Recommendation.

JURISDICTION

It is the finding of the Board that the following were proved by clear and convincing evidence:

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 **JANET M. BRASWELL** (“Braswell”) is a Certified Residential Appraiser in the State of Oklahoma, holding license number 11585CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on June 11, 1996; and is an approved instructor in accordance with OAC 600:10-1-8(a)(6).

4. That the Respondent **AMERICAN INSTITUTE OF REAL ESTATE EDUCATION** (“American Institute”) is an approved education provider who provides educational courses as a secondary course provider in accordance with OAC 600:10-1-8. Janet Braswell is the company’s Director and contact person.

FINDINGS OF FACT

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

EXAMINATION GRADING ERRORS

1. That Respondent **JANET M. BRASWELL** (“Braswell”) is a Certified Residential Appraiser in the State of Oklahoma, holding license number 11585CRA and was first credentialed with the Oklahoma Real Estate Appraiser Board on June 11, 1996; and is an approved instructor in accordance with OAC 600:10-1-8(a)(6).

2. That the **AMERICAN INSTITUTE OF REAL ESTATE EDUCATION** (“American Institute”) is an approved education provider who provides educational courses as a secondary course provider in accordance with OAC 600:10-1-8. Janet Braswell is the company’s Director and contact person.

3. In August of 2008, the Charles Barnes School of Real Estate (“Barnes”) offered a real estate appraiser continuing education package titled the “Professional Appraisal Package” (the “package”). Said package included the courses (1) Course Number 601 - Basic Appraisal Principles, a thirty (30) hour course (held on August 14-16); (2) Course Number 602 - Basic Appraisal Procedures, a thirty (30) hour course (held on August 21-23); and (3) Course Number

600 - USPAP (held on August 29-30); all of the three courses were taught by Braswell and included a graded examination at the end. Courses 601 and 602 are thirty (30) hour courses that, based on their schedule, must have been taught in ten (10) hour increments, thus violating the Owner-Secondary Provider Agreement and Course Owner Policies as well as the AQB Course Approval Program Policies and Procedures. The examination scores were demonstrated to be inaccurate. Grading errors include the following paragraphs four (4) thru eighteen (18).

i. Basic Appraisal Principles

4. On or about August 16, 2008, Braswell concluded teaching the course Basic Appraisal Principles. Said course was provided by Barnes. Attending this course were the following students: Mary Peterson, James Walker, Drew Henthorne, Michael Bounds, Mamie Ball, Jim Bryan, Russell Barnett, Lindsay Barnes, Melissa Hadley, Paul Hix, Darrell Mason, Jay Clevenger and Douglas Clark

5. On that same day, students of the course completed an examination and said examination was ultimately graded by Braswell.

6. Class attendee Drew Henthorne received a score of 87 (out of 100), but failed to answer eighty-seven (87) of the one hundred (100) total questions. The thirteen (13) questions he did answer were answered incorrectly, leading to a total of zero (0) correct answers.

7. Class attendee James Walker received a score of eighty-seven (87) (out of 100), when he actually missed nineteen questions, resulting in a true score of eighty-one (81).

8. Class attendee Frances Peterson received a score of ninety-seven (97) (out of 100), when she actually missed only one question, resulting in a true score of ninety-nine (99).

9. Class attendee Michael Bounds received a score of ninety-six (96) (out of 100), when he actually missed eight (8) questions, resulting in a true score of ninety-two (92).

10. Class attendee Jim Bryan received a score of ninety-five (95) (out of 100), when he actually correctly answered all of the questions, resulting in a true score of one hundred (100).

11. Class attendee Russell Barnett received a score of eighty (80) (out of 100), when he actually missed only seven (7) questions, resulting in a true score of ninety-three (93).

12. Class attendee Melissa Hadley received a score of ninety-eight (98) (out of 100), when she actually missed three (3) questions, resulting in a true score of ninety-seven (97).

13. Class attendee Darrell Mason received a score of ninety-four (94) (out of 100), when he actually missed seven (7) questions, resulting in a true score of ninety-three (93).

ii. Basic Appraisal Procedures

14. On or about August 23, 2008, Braswell concluded teaching Basic Appraisal Procedures. Said course was provided by Barnes. Attending this course were the following students: Mary Peterson, James Walker, Drew Henthorne, Michael Bounds, Mamie Ball, Jim Bryan, Russell Barnett, Lindsay Barnes, Melissa Hadley, Paul Hix, Darrell Mason, Jay Clevenger and Douglas Clark.

15. Class attendee Michael Bounds received a score of eighty-three (83), providing incorrect answers for twenty-seven (27) of the one hundred thirty (130) questions. This should have resulted in a percentage score of seventy nine percent (79%). Bounds actually answered twenty nine (29) of the questions incorrectly, for a true percentage score of seventy eight percent (78%).

16. Class attendee Mamie Ball received a score of eighty-seven (87), providing incorrect answers for thirteen (13) of the one hundred thirty (130) questions. This should have resulted in a percentage score of ninety percent (90%).

17. Class attendee Russell Barnett received a score of eighty-four (84), purportedly providing incorrect answers for sixteen (16) of the one hundred thirty (130) questions. This should have resulted in a percentage score of eighty seven percent (87%). Barnett actually answered fifteen (15) of the questions incorrectly, resulting in a true percentage score of eighty-eight percent (88%).

18. Class attendee Lindsay Barnes received a score of ninety-four (94), purportedly providing incorrect answers for six (6) of the one hundred thirty (130) questions. This should

have resulted in a percentage score of ninety-five percent (95%). Barnes actually answered eight (8) of the questions incorrectly, resulting in a true percentage score of ninety-four percent (94%).

FACTS PERTAINING TO JANUARY 27 & 28, 2010 COURSE

19. Neither Braswell nor the American Institute ever filed a course announcement with the OREAB as required by OAC 600:10-1-8.

20. On January 26, 2010, Braswell, in a class offered by the American Institute, filed a change of location announcement, via facsimile, with the OREAB office. This was for a class described as Market Analysis and Highest and Best Use, Course No. 612. This is a fifteen hour tested course, used as continuing or qualifying education. The "new" location was listed as Sheraton Reed Center ("Sheraton"), 5800 Will Rogers Road, Midwest City, Oklahoma, and was to be conducted on January 27 and 28, 2010. Respondent failed to notify three (3) of the five (5) students enrolled in the course.

21. The notification failure resulted in three (3) of the five (5) students verbally enrolled in the Course arriving at the originally scheduled location, which was an Oklahoma Military Department training facility at 6500 North Kelly, Oklahoma City.

22. Upon arriving at the originally scheduled course location at the scheduled starting time of 9:00 a.m. and finding no course instructor or information, the three (3) students departed the original location; two of them went home, and attempted to contact the office of the Board. On communicating with members of the Board staff, they learned that the location had been changed to the Sheraton.

23. The three (3) students then traveled to the Sheraton and arrived at the designated class area approximately between 10:30 and 10:45 a.m. The class had already begun by the time the three (3) students' arrival, in violation of the secondary course provider agreement between Hondros Learning and the American Institute.

24. The first day of class proceeded, to include a formal lunch break, and concluded at 5:45 pm.

25. The second day of the class, January 28, 2010, began at 8:00 am at the Sheraton, and continued, without breaks, until approximately 1:45 or 2:00 pm because of deteriorating weather.

26. Near the conclusion of that day's class, Braswell provided all five (5) students with the final examination and advised them to take the examination home and fax the completed examination to her. Braswell also, prior to the conclusion of the January 28, 2010, class, provided course completion certificates to the students.

EXPIRED COURSES

27. That on February 6, 2009, although they were not required to do so, Board staff sent Braswell a courtesy letter advising her that her approval to teach qualifying course #601, Basic Appraisal Principles, would expire on March 31, 2009, and that her approval to teach qualifying course #602, Basic Appraisal Procedures, had expired on January 31, 2009.

28. Subsequently, Braswell taught several expired courses as listed in Exhibit D, attached.

29. That on November 5, 2009, Braswell sent an announcement to the Board office that she would be teaching courses #601 and #602 between November 13, 2009 and November 22, 2009.

30. On November 5, 2009, in response to that course announcement, the Director sent Braswell a letter explaining again that her course approval for those two courses had expired months earlier, and that she was in violation of Board Rules, and he enclosed a copy of the February notice letter.

31. That Braswell taught these qualifying courses at least four times after her course approval had expired and that at least five students took these qualifying courses from Respondent after her course approval had expired. Accordingly, five individuals were issued Trainee Appraiser certificates based on the expired courses.

32. That after November 5, 2009, Braswell twice submitted deficient applications to **renew** her course approval for courses #601 and #602. Both times the deficient applications

were returned to Braswell with letters explaining in detail what the deficiencies were and that she could not **renew** a course approval that had already expired. It was not until November 25, 2009, that Respondent submitted course approval requests that complied with Board Rules. Those requests were approved by the Board on December 4, 2009.

ALTERED CERTIFICATE

33. That sometime before October 1, 2009, Michael Bounds, an applicant for a trainee certificate from the Board, submitted an obviously altered certificate of course completion for a course taught by Braswell for Barnes. He was denied a license because of the altered certificate and asked for a hearing.

34. That after Bounds' submission and before his hearing, Braswell called the Board office and informed Christine McEntire that she had inadvertently printed out the wrong certificate and made the hand-written revisions herself before she gave it to Mr. Bounds.

35. At the Board hearing held in response to Mr. Bounds' request for hearing, Mr. Bounds testified that when he was given a course completion certificate and noticed that it was in error, he "was instructed by my instructor at the time of completion of the three classes to change the one to the proper number", and he did so and submitted it to the Board.

36. Braswell, who was present when Mr. Bounds testified, then testified that Mr. Bounds' statements were correct; that she instructed him to change the certificate and did not change it herself.

CONCLUSIONS OF LAW

The Board adopts in full the Conclusions of Law recommended by the hearing panel:

1. 59 O.S. § 858-723(C) (2): "Failing to meet the minimum qualifications established pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act." This includes, but is not limited to, the following:

A. Respondents failed to properly administer the continuing education course attendance hourly requirements as submitted by the course owner and approved by the Appraiser Qualification Board and the OREAB;

B. Respondents failed to properly administer the continuing education course schedule requirements (including breaks, lunch, maximum hours per day, and teaching expired courses) as submitted by the course owner and approved by the Appraiser Qualification Board and the OREAB; and

C. Respondents failed to properly administer the continuing education course examination requirements (including inaccurate grading and releasing written examinations outside the classroom) as submitted by the course owner and approved by the Appraiser Qualification Board and the OREAB.

2. 59 O.S. § 858-723(C) (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."

3. 59 O.S. § 858-723(C) (6) through 59 O.S. §858- 726, in that Respondent Braswell violated:

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

B. The Competency Rule of the Uniform Standards of Professional Appraisal Practice.

4. 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."

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

RECOMMENDED DISCIPLINE

WHEREFORE, the Board, having adopted the Findings of Fact and Conclusions of Law as set forth above, sets forth the following Final Order adopting the recommendation of

the Hearing Panel:

1. Respondent Braswell's status as a Board-approved instructor be **SUSPENDED** for a period of not less than **ONE (1) YEAR** from the date any order of the Board adopting this recommendation.

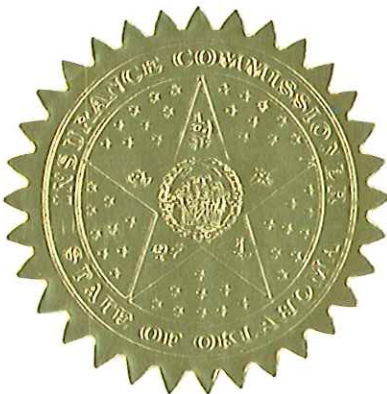
2. Respondent American Institute of Real Estate Education's status as a Board-approved course provider be **SUSPENDED** for a period of not less than **ONE (1) YEAR** from the date any order of the Board adopting this recommendation.

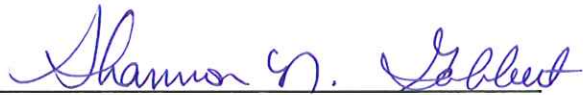
3. Respondent Braswell be assessed an administrative fine in the amount of one thousand five hundred dollars (\$1,500); such fine to be paid as contemplated by 59 O.S. § 858-723 (B) (2) and (4).

4. Failure by Respondent Braswell to comply with any requirement of this order shall result in her appraisal credential being suspended instanter, with notification forwarded immediately to Respondent by Certified Mail, Return Receipt Requested.

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 5th day of November, 2010




SHANNON N. GABBERT, Secretary
Real Estate Appraiser Board


BRYAN D. NEAL, Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 9 day of November, 2010, a true and correct copy of the above and foregoing Board's Decision on Hearing Panel Recommendation was placed in the U.S. Mail by certified mail, return receipt requested to:

Rachel Lawrence Mor
3037 N.W. 63rd Street, Suite 200
Oklahoma City, Oklahoma 73116

7009 2820 0001 5683 8090

and by regular mail to:

KELLY A. DAVIS
117 E. Russell
El Reno, Oklahoma 73036

JERRY L. JONES
P.O. Box 3466
Shawnee, Oklahoma 74802

H.E. "TED" SMITH
P.O. Box 362
Stillwater, Oklahoma 74076

DERRYBERRY & NAIFEH, LLP
Attn: Stephen McCaleb
4800 North Lincoln Blvd.
Oklahoma City, Oklahoma 73105

MOORE & VERNIER
Attn: Sue Wycoff
301 N.W. 63rd Street, Suite 550
Oklahoma City, Oklahoma 73116

OFFICE OF THE ATTORNEY GENERAL
Attn: Bryan Neal
313 N.E. 21st Street
Oklahoma City, OK 73105

JANET BRASWELL
641 N.E. 15th Street
Oklahoma City, Oklahoma 73104

AMERICAN INSTITUTE OF REAL ESTATE EDUCATION
c/o JANET BRASWELL
641 N.E. 15th Street
Oklahoma City, Oklahoma 73104



Christine McEntire