

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

In the Matters of MATTHEW A. BALES and)	
GARETT S. PEARCE)	
)	Complaint #17-009(A), (B), and (C)
)	Complaint #17-010(A), (B), and (C)
Respondents.)	

**BOARD'S DECISION AS TO
DISCIPLINARY HEARING PANEL RECOMMENDATION**

ON THE 7th day of March, 2018 the above numbered and entitled cause came on for hearing before the Real Estate Appraiser Board following a Disciplinary Hearing that was held on January 30, 2018. The Board was represented by a Disciplinary Hearing Panel composed of three (3) appraiser members, Albert A. Wooldridge, of Altus, Oklahoma, David Alvin Curtis of Oklahoma City, Oklahoma, and Darin A. Dalbom of Oklahoma City, Oklahoma, each of whom is a current Member of the Board's Standards and Disciplinary Procedures Committee. Darin A. Dalbom was elected and served as Hearing Panel Chairman at the hearing. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's Prosecutor, Stephen McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording.

The Respondent, Matthew A. Bales, of Tulsa, Oklahoma ("Bales"), having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel in Complaint No. 17-009(A), (B), and (C) (the "Notice 1") by first class U.S. certified mail with return receipt requested to his last-known business and/or residence address on December 20, 2017, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, and the Respondent Bales, having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel in Complaint No. 17-

010(A), (B), and (C) (the "Notice 2") by first class U.S. certified mail with return receipt requested to his last-known business and/or residence address on December 27, 2017, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, and having been mailed a Notice of Continued Disciplinary Hearing (the "Continuance Notice"), which Continuance Notice continued the hearings scheduled in Notice 1 and in Notice 2 as well as consolidated the hearing scheduled through Notice 1 with the hearing scheduled through Notice 2 to January 30, 2018, and which Continuance Notice was mailed by first class U.S. certified mail with return receipt requested to the office of his Attorney, Daniel J. Gamino, Daniel J. Gamino & Associates, P.C., Oklahoma City, Oklahoma, on January 12, 2018, appeared in person in the consolidated hearing on January 30, 2018, and was represented by his Attorney, Daniel J. Gamino.

The Respondent, Garrett S. Pearce, of Tulsa, Oklahoma ("Pearce"), having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel in Complaint No. 17-009(A), (B), and (C) (also hereinafter referred to as "Notice 1") by first class U.S. certified mail with return receipt requested to his last-known business and/or residence address on December 20, 2017, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the Administrative Procedures Act, 75 O.S. §§250-323, and having been mailed a Notice of Continued Disciplinary Hearing (the "Continuance Notice"), which Continuance Notice continued the hearings scheduled in Notice 1 and in Notice 2 as well as consolidated the hearing scheduled through Notice 1 with the hearing scheduled through Notice 2 to January 30, 2018, and which Continuance Notice was mailed by first class U.S. certified mail with return receipt requested to the office of his Attorney, Daniel J. Gamino, Daniel J. Gamino & Associates, P.C., Oklahoma City, Oklahoma, on January 12, 2018, did not appear in person in the consolidated hearing on January 30,

2018, but appeared through and was represented by his Attorney, Daniel J. Gamino. The Respondents Bales and Pearce both elected to have this matter recorded by electronic device and to rely on the electronic recording.

PRELIMINARY MATTERS

The Board's Prosecutor, Mr. McCaleb, announced that he and the Respondents Bales and Pearce agreed to stipulate to certain facts in the consolidated cases which were reduced to writing and presented during the Hearing to the Hearing Panel as a document entitled "Stipulations as to Facts" (the "Stipulations"), which Stipulations consisted of six pages and which Stipulations were signed by Respondent Bales and his Attorney, Daniel J. Gamino, Respondent Pearce (by the authorized signature of Matthew A. Bales) and Respondent Pearce's Attorney, Daniel J. Gamino, as well as by the Board's Prosecutor, Stephen McCaleb. On behalf of Respondents Bales and Pearce, Mr. Gamino voiced agreement to the announcement of the presentation of the Stipulations. At this point the Board's Prosecutor, Mr. McCaleb briefly informed the Hearing Panel about stipulations and their use in general and briefly explained the matters to be presented in the hearing (which Mr. McCaleb acknowledged basically served as his opening statement). The Respondent Bales and Pearce's Attorney, Mr. Gamino, indicated that the Board Prosecutor's statements were a fair representation of stipulations and presented his opening statement in the defense of Respondents Bales and Pearce.

The Board's Prosecutor moved for the admission of one (1) exhibit for the Board marked in handwriting as Exhibit A to which there was no objection and the Board's one exhibit was admitted into evidence (It was noted by the Board's Hearing Counsel, Bryan Neal, upon its submission in the Hearing that hand-marked Exhibit A, also bears a typewritten label of "Exhibit 'F'" as well as a corresponding sticker hand-marked as "Exhibit F", to which the Board's

Prosecutor in response for purposes of clarification stated was the designation of the same document that was previously attached to the initial grievances in these matters that, upon Board approval, became the six complaints numbered as 17-009(A), (B), and (C), and 17-010(A), (B), and (C), respectively, that were consolidated into this one proceeding). Each of Exhibit A's six (6) pages represents either: (1) the quoted language verbatim used in the six appraisal reports submitted by the Respondent Bales to the six named clients (which appraisal reports are on file with the Board as part of the record in each of these six complaints) that differed with the quoted language verbatim used in the six modified appraisal reports subsequently submitted by the Respondents Bales and/or Pearce to the Board on file with the Board as part of the record in each of these six complaints; or (2) a summary of the discrepancies in each one of the two (2) different appraisal reports for each one of the six (6) different parcels of real property for an aggregate amount of twelve (12) appraisal reports, with the first page of Exhibit A marked as 17-009A, the second page marked as 17-009B, the third page marked as 17-009C, the fourth page marked as 17-010A, the fifth page marked as 17-010B, and the sixth and final page marked as 17-010C.

Exhibit A was a six-page document that identified discrepancies between six (6) written appraisal reports, each signed and submitted by Respondent Bales to six (6) of his clients (in each of these complaints, the clients are actually lenders), named therein respectively, three of which appraisal reports involved the assistance of Respondent Pearce (marked as pages 17-009A, 17-009B, and 17-009C) and six (6) appraisal reports, each signed by Respondent Bales as the appraiser and submitted by Respondent Bales under subpoena to the Board as a part of each one of his six (6) appraisal work files, one for each of the six (6) subject properties appraised, three (3) of which appraisal reports involved the assistance in some way of Respondent Pearce (marked as pages 17-

009A, 17-009B, and 17-009C).

Neither of the Respondents Bales or Pearce nor the Board as parties to these proceedings requested that a court reporter record this matter and neither of the Respondents Bales or Pearce nor the Board as parties to these proceedings submitted any proposed findings of fact or proposed conclusions of law to the Disciplinary Hearing Panel for their consideration.

WITNESSES AND EVIDENCE PRESENTED

In light of the joint submission of the Stipulations herein, the Board's Prosecutor presented one witness in support of the case against the Respondents: Christine McEntire, Director of the Oklahoma Real Estate Appraiser Board.

Christine McEntire Testimony (Summary)

Upon being duly sworn, Christine McEntire, the Board's Director, testified that applicants for certified residential appraiser licensure in Oklahoma are required to obtain 2,500 hours of appraisal-related experience, that the number of hours of appraisal-related experience required in Oklahoma matches the 2,500 hour requirement for such appraisal-related experience as established by the Appraiser Qualifications Board (AQB), that to secure the required number of hours of appraisal-related experience applicants work with supervisors and/or other appraisers, that the requirements for licensure is three-tiered with education, experience, and testing, that once the applicant secures the required 2,500 hours of appraisal-related experience to the satisfaction of the Board, a test-card good for two years is issued by the Board so that applicants can take their test and become licensed, and that the Respondent Garrett S. Pearce had applied for licensure, tested soon thereafter and quickly thereafter became licensed as a Certified Residential Appraiser. Continuing, Ms. McEntire stated that a short time later, Dustin Davis was also an applicant for licensure but was never issued a test-card due to the discrepancies discovered in the appraisal reports which are the

subject of this Hearing.

At this point the State, having introduced and having secured the admission of the Stipulations herein, rested.

The Respondents Bales and Pearce presented one (1) witness in defense of the Respondents Bales and Pearce: Matthew A. Bales, the Respondent Bales himself.

During the Hearing, the Board's Hearing Counsel, Bryan Neal, asked if there was any objection from the Respondents Bales and Pearce to including as facts, the licensure information as to Bales in Section 6 and Pearce in Section 7 under the subheading of "Jurisdiction" on page two in Notice 1. On behalf of the Respondents Bales and Pearce, their Attorney Daniel J. Gamino, stated he had no objection to the licensure information as to Bales in Section 6 and that he would stipulate to such licensure information as to Pearce in Section 7.

Further, during the Hearing, the Board's Prosecutor, Stephen McCaleb and the Respondents' Attorney, Daniel J. Gamino, both verbally expressed their agreement to the members of the Hearing Panel having access to and reviewing any of the twelve (12) appraisal reports referred to in Exhibit A (six of which were submitted to the Board by Respondent Bales and six of which were obtained by the Board under subpoena from the six clients of Respondent Bales), as part of the record in each of the six complaints consolidated for Hearing in this matter, which twelve (12) appraisal reports are on file with and in the files of the Board.

Matthew A. Bales Testimony (Summary)

The Respondent, Matthew A. Bales, upon being duly sworn, testified that he is acquainted with the Respondent Garrett S. Pearce, that as an appraiser he (Bales) has never been revoked, suspended, and has never had any discipline imposed on him as an appraiser, that Cody Bales who once was also a real estate appraiser, is his brother, that his brother Cody Bales also worked in the

Tulsa area, that he (Matthew Bales) has worked as an appraiser for almost eleven years, that his brother Cody Bales was previously licensed as an appraiser but that Cody Bales is no longer so licensed as he was ultimately revoked or suspended, that was not involved with Cody Bales' activities before the Board, that Cody Bales ceased to be licensed by the Board somewhere around 2014 or 2015, that he has had no [work] affiliation with Cody Bales since that time, and that neither Respondent Garrett S. Pearce nor Dustin L. Davis have had any affiliation with Cody Bales since then.

Continuing, Mr. Bales stated that his brother Cody Bales wanted to start over, that Cody Bales now lives in Texas closer to Cody's daughter who lives in Dallas, that his brother is registered to vote in Texas, that Cody Bales' car is registered in Texas, that Cody Bales lives in Texas, that Cody Bales never comes back to work with him (Matthew Bales) or with Garrett S. Pearce or Dustin L. Davis, each of whom is a former Cody Bales' trainee, that Cody Bales and he had shared office space at one time but not now.

In response to a question by his Attorney about his connections with the Respondent Garrett S. Pearce and Dustin L. Davis, the Respondent Matthew A. Bales, stated that he knew them, that he hated to see them lose their experience hours while having worked with his brother Cody Bales, that he worked with the Respondent Garrett S. Pearce and Dustin L. Davis, that he took both of them as his trainees, that he had nothing to do with Respondent Garrett S. Pearce testing for appraiser licensure, that Respondent Garrett S. Pearce did test and did pass his test, that the Board did not allow Dustin L. Davis to test, and that Dustin L. Davis became frustrated with the licensure process and has since left the profession of appraising.

Mr. Matthew Bales indicated that he performed six appraisals for six clients which are the subjects of this Hearing, that the first page of Exhibit A is for the appraisal report involved in

Complaint 17-009(A) [for the International Bank of Commerce], that the Board requested three appraisal reports in connection with the experience hours logged by Respondent Garrett S. Pearce as having provided assistance, that upon receipt of such Board request he sat down with Respondent Garrett S. Pearce as a training process and went over the three Board-requested appraisal reports [17-009(A) for International Bank of Commerce (Exhibit A, center column, page 1), 17-009(B) for Finance of America (Exhibit A, center column, page 2), and 17-009(C) for Security National Mortgage (Exhibit A, center column, page 3)] with Mr. Pearce to make them look better, that he made changes in the three appraisal reports requested by the Board to beef up the commentary before the three appraisal reports were sent into the Board [17-009(A) for International Bank of Commerce as modified by Matt Bales (Garrett Pearce) (Exhibit A, right-hand column, page 1), 17-009(B) for Finance of America as modified by Matt Bales (Garrett Pearce) (Exhibit A, right-hand column, page 2), and 17-009(C) for Security National Mortgage as modified by Matt Bales (Garrett Pearce) (Exhibit A, right-hand column, page 3)], and that the other three appraisal reports were for Dustin L. Davis.

The Respondent Bales stated that the Board requested three appraisal reports in connection with the experience hours logged by his other trainee Dustin L. Davis as having provided assistance, that upon receipt of such Board request he sat down with Davis as a training process and went over the three Board-requested appraisal reports for the same purpose as he had with the Respondent Garrett S. Pearce [17-010(A) for Guild Mortgage as modified by Matt Bales (Dustin Davis) (Exhibit A, right-hand column, page 4), 17-010 (B) for American Advisors Group as modified by Matt Bales (Dustin Davis) (Exhibit A, right-hand column, page 5), and 17-010(C) for Associated Mortgage Corporation as modified by Matt Bales (Dustin Davis)].

In response to a question about the changes he made in the six modified appraisal reports he

submitted to the Board that differed from the six appraisal reports he previously submitted to his six clients, Respondent Bales stated that the changes were not vastly different, that there were no significant changes, that he showed Respondent Pearce and Davis how to do a better [appraisal] report, that there was nothing improper in the changes he made, and that he did not substantially change any appraised values of any real properties he had appraised.

Respondent Bales referred to Exhibit A, 17-009(A), entitled "Discrepancy", page one, line one, and indicated that he provided a more thorough explanation as depicted in the right-hand column of page one, line one (Exhibit A, page one, line one, Matt Bales (Garett Pearce) Appraisal Report) of the appraisal report that he submitted to the Board, than the one he had provided to his client International Bank of Commerce as depicted in Exhibit A, 17-009(A), (page one, line one, center column, International Bank of Commerce Appraisal Report).

Continuing, Respondent Matthew Bales stated, in connection with the changes he made to his six appraisal reports he sent to the Board from those six appraisal reports he previously submitted to his six clients, that he had no intent to defraud, no intent to trick, and no intent to cheat anyone or to misrepresent any real properties. Further in this regard, Respondent Bales stated that his motive was to train and help two trainees (Respondent Pearce and Dustin Davis) and to open their eyes. Still further in this regard, Respondent Bales stated that none of his changes [to the six appraisal reports submitted to the Board] had any changed values, none of his changes [to the six appraisal reports submitted to the Board] changed any square footages, that none of his changes found an additional three bedrooms, that he made no changes in the conditions of any roofs or photographs, that he did not benefit from any of the changes he made, that no complaints were ever made by any property buyers, and that no dissatisfaction was ever expressed by anyone.

In response to a question about Respondent Pearce and Davis, Respondent Bales stated that

Respondent Bales is still an active appraiser and that Dustin L. Davis was in his opinion, qualified to have been licensed as an appraiser.

In response to a question on redirect, Respondent Bales stated that he signed all of the appraisal reports in this matter as the appraiser, that he noted the assistance of Respondent Pearce and Davis with the appraisal reports, that the trainees, Respondent Pearce and Davis, did not sign off on any of the appraisal reports in this matter, and that as to the modified appraisal reports he submitted to the Board, he mostly added commentary to the appraisal reports.

Respondent Bales stated that he originally thought that the two trainees, Respondent Pearce and Davis, were trained well as to writing appraisal reports but later thought that the trainees, Respondent Pearce and Davis, could do a better job, that their appraisal reports could be worded better, that a lot of appraisal report writing is descriptive, and that his brother Cody Bales was not involved in any of the appraisal reports in this matter.

In response to another question on redirect, Respondent Bales stated that he has appraised real property for ten years, that he tried to “fluff-up” the modified appraisal reports he submitted to the Board, that the appraisal reports he submitted to the Board in this matter were modified from those he had submitted to his clients, that he had no intent to defraud, and that he was attempting to make the appraisal reports that he submitted to the Board look “squeaky clean”.

The Respondent Bales, in response to a question, stated that he did change one of his comparable sales (which he did not identify) on one of his appraisal reports (which he also did not identify), that such change was not substantive, and that he was not attempting to procure any appraiser license based on any of the appraisal reports because he was already licensed as an appraiser.

In response to a question, Respondent Bales stated that he was required by the Board to keep

work files and that he submitted his work files to the Board which included modified appraisal reports.

The Respondent Bales, in response to a question as to whether he physically inspected all six parcels of real property which were the subject properties in all of the appraisal reports involved in this matter, stated that he did not personally inspect all of the subject properties.

At this point in the hearing, the Respondents Bales and Pearce rested their defense. The Respondents Bales and Pearce presented no other witnesses in their defense.

At this time, the Board's Prosecutor, Stephen McCaleb, and the Attorney for the Respondents Bales and Pearce, Daniel J. Gamino, noted a correction in the statutory citation in line 5 of the first paragraph on page one of the Stipulations to insert "Title 75 §309(E)" in lieu of "Title 75 §858-700 et seq." as originally stated therein as well as striking out the phrase "...and Oklahoma Administrative Code 600:10-1-1, et seq.".

In response to a question directed to the Board's Prosecutor, Stephen McCaleb, and the Attorney for the Respondents Bales and Pearce, Daniel J. Gamino, by members of the Hearing Panel, as to whether the Hearing Panel could look at and review the both the Board's Prosecutor, Stephen McCaleb, and the Attorney for the Respondents Bales and Pearce, Daniel J. Gamino, agreed.

Respondents, Bales and Pearce, timely filed a Request for Oral Argument and both Bales and Pearce, along with their attorney of record, Daniel J. Gamino, appeared at the board meeting in order to present oral argument. Stephen L. McCaleb, the Board's prosecutor, appeared on behalf of the Board and also provided oral argument.

JURISDICTION

1. The OREAB has the duty to carry out the provisions of the Oklahoma Certified Real Estate Appraisers Act as set forth at Title 59 of the Oklahoma Statutes, §§858-701, *et seq.* and to establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act.

2. The OREAB has promulgated rules and regulations to implement the provisions of the Oklahoma Certified Real Estate Appraisers Act in regard to disciplinary proceedings as set forth at the Oklahoma Administrative Code, §§600:15-1-1 thru 600:15-1-22, including administrative hearings.

3. The Respondent, MATTHEW A. BALES, is a certified residential appraiser in the State of Oklahoma, holding certificate number 12894CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on October 10, 2007.

4. The Respondent, GARETT S. PEARCE, is a certified residential appraiser in the State of Oklahoma, holding certificate number 13234CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 20, 2017.

FINDINGS OF FACT

The Board hereby adopts in full the Findings of Fact of the Disciplinary Hearing Panel as follows:

1. The Respondent, MATTHEW A. BALES, is a certified residential appraiser in the State of Oklahoma, holding certificate number 12894CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on October 10, 2007.

2. The Respondent, GARETT S. PEARCE, is a certified residential appraiser in the State of Oklahoma, holding certificate number 13234CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 20, 2017.

3. This matter involves a December 7, 2016 *Application for Real Estate Credential* filed by Garrett S. Pearce (“Pearce”) for an original license as a Certified Residential Appraiser. Included with his application was the required work product experience log annotating the required minimum of 2,500 hours of appraisal-related experience hours which would qualify him for this license level. This complaint has three separate subparts - #17-009A, #17-009B, and #17-009C which were filed against the Respondents: two Certified Residential Appraisers (“supervisor” and “applicant”). [Stipulated Fact No. 1 for Complaint #17-009(A), (B), and (C)].

4. Pearce, the applicant, applied for an original Certified Residential Appraiser credential from a non-Trainee status. [Stipulated Fact No. 2 for Complaint #17-009(A), (B), and (C)].

5. On his work log, he identified appraisal reports he worked on to obtain his 2,500 hours of appraisal-related experience. Among these were three reports that were reviewed by the OREAB as follows: a report with an effective date of October 7, 2016 for a property located at 901 N.W. 186th Street in Edmond (complaint 17-009A); another appraisal report with an effective date of September 27, 2016 for a property located at 27581 E. 160th Street in Coweta (complaint 17-009B); and an appraisal report with an effective date of November 4, 2016 for a property located at 1733 S. Cheyenne Avenue in Tulsa (complaint 17-009C). [Stipulated Fact No. 3 for Complaint #17-009(A), (B), and (C)].

6. When the OREAB requested these three reports, it also requested the work files. [Stipulated Fact No. 4 for Complaint #17-009(A), (B), and (C)].

7. Given the information on his application, including his stated business address and

email, it might appear the applicant was associated with a recently suspended appraiser, Cody Bales (Matthew Bales brother). [Stipulated Fact No. 5 for Complaint #17-009(A), (B), and (C)].

8. Experience hours identified on the applicant's work log included a period of time wherein the suspended appraiser (Cody Bales) should not have been working. In order to perform needed due diligence, it was deemed necessary to subpoena the three appraisal reports from the lenders on those appraisal reports selected by the Board's Education, Experience and Testing Committee. The experience review was completed quickly and prior to receiving the subpoenaed records from the lender. Pearce was cleared for licensure after secondary reviews of the three reports. [Stipulated Fact No. 6 for Complaint #17-009(A), (B), and (C)].

9. A test card was issued to the applicant and he subsequently passed the examination.

[Stipulated Fact No. 7 for Complaint #17-009(A), (B), and (C)].

10. A review of the three appraisal reports from the lenders was not completed until after the applicant passed the examination and received his certification. All three appraisal reports submitted to the Board's Education, Experience and Testing Committee member were found to be different from the materials submitted to the Board for a work product review. The modifications included changes to the neighborhood description, market conditions, summary of sales comparison approach, and in one instance, the site value was changed in the cost approach. [Stipulated Fact No. 8 for Complaint #17-009(A), (B), and (C)].

11. This complaint involves a February 9, 2017 Application for Real Estate Appraiser Credential filed by Dustin L. Davis ("Davis") for an original license as a Certified Residential Appraiser. Included with his application was the required work product experience log annotating the required minimum of 2,500 hours of appraisal-related experience hours which

would qualify him for this licensure level. His work log identified appraisal reports which included one for 7359 E. 59th Place in Tulsa, Oklahoma (“59th Place appraisal report.”) (filed as complaint 17-010A), one for 804 Carfax Road, Edmond, Oklahoma (filed as complaint 17-010B), and one for 808 N.W. 49th Street, Oklahoma City, Oklahoma (filed as complaint 17-010C). These reports were signed by Matthew A. Bales. [Stipulated Fact No. 9 for Complaint #17-010(A), (B), and (C)].

12. On March 6, 2017, upon completion of an administrative review, Davis was notified that his work log was assigned to a member of the Board’s Education, Experience and Testing Committee (“EET”). Davis was notified that the EET reviewer would like to review the three reports referenced in the previous paragraph. On March 8, 2017, Davis emailed the three reports to Board staff. [Stipulated Fact No. 10 for Complaint #17-010(A), (B), and (C)].

13. Given the information on his application, including his stated business address and
email, it might appear the applicant was associated with a recently suspended appraiser, Cody Bales (Matthew Bales brother). [Stipulated Fact No. 11 for Complaint #17-010(A), (B), and (C)].

14. On March 16, 2017, records were subpoenaed from the three lenders with a response deadline of March 30, 2017. All three reports were received by the Board with copies provided to Certified Residential Appraiser, Matthew A. Bales (“Bales”). [Stipulated Fact No. 12 for Complaint #17-010(A), (B), and (C)].

15. Upon comparison of the appraisal reports received from the lenders with the appraisal reports submitted by Davis, discrepancies between the reports were noted. [Stipulated Fact No. 13 for Complaint #17-010(A), (B), and (C)].

16. Further, the report for 808 N.W. 49th Street, Oklahoma City, Oklahoma report identified Garret Pearce as providing assistance, and not Dustin L. Davis. [Stipulated Fact No. 14 for Complaint #17-010(A), (B), and (C)].

17. Despite the testimony of the Respondent Bales to the contrary that the changes he made in the amended appraisal report he submitted to the Board [Complaint #17-009(B)] were not material or substantive, upon review of the appraisal reports in the files of the Board for and part of the record in Complaint #17-009(B), identified in Exhibit A (page 2, line 5, under “Discrepancy”), the Cost Approach (page 3 of 6) submitted to the client Finance of America [Complaint #17-009(B)] by Respondent Bales (assisted by Respondent Pearce) indicates a significantly higher site value of \$37,000.00 than the Respondent Bales’ site value of \$25,000.00 for the subject property located at 27581 E. 160th Street South, Coweta, Oklahoma 74429 than in the Cost Approach in the amended appraisal report he submitted to the Board [Complaint #17-009(B)].

18. Despite the testimony of the Respondent Bales to the contrary that the changes he made in the amended appraisal report he submitted to the Board [Complaint #17-009(C)] were not material or substantive, upon review of the appraisal reports in the files of the Board for and part of the record in Complaint #17-009(C), identified in Exhibit A (page 3, line 6, under “Discrepancy”), the Market Conditions Form (“MC Form”) submitted to the client Security National Mortgage [Complaint #17-009(C)] by Respondent Bales (assisted by Respondent Pearce) indicates a significantly higher market value analysis (neighborhood value range) than the Respondent Bales’ concluded opinion of value for the subject property located at 1733 South Cheyenne Avenue, Tulsa, Oklahoma 74119. The Market Conditions Form (MC Form) submitted to the Board for review indicates a significantly lower neighborhood value range.

This amended range is in line with the original concluded value opinion of the Respondent Bales (assisted by Respondent Pearce) for the subject property located at 1733 South Cheyenne Avenue, Tulsa, Oklahoma 74119.

Furthermore, the amended appraisal report of the Respondent Bales (assisted by Respondent Pearce) submitted to the Board includes a far greater number of comparable sales and listings than the original appraisal report submitted by the Respondent Bales (assisted by Respondent Pearce) to the client Security National Mortgage [Complaint #17-009(C)].

The original MC Form in the original appraisal report submitted by the Respondent Bales (assisted by Respondent Pearce) to the client Security National Mortgage [Complaint #17-009(C)], reported in the last six months 14 comparable sales while the amended appraisal report submitted to the Board indicates 70 comparable sales. The 14 comparable sales ranged from \$128,500.00 to \$160,000.00 for the median sales price ranges (way above the \$85,000.00 appraised value). The 70 comparable sales ranged from \$79,500.00 to \$105,000 for the median sales price ranges.

Taken together, these differences in the MC Forms are material examples of violations of recordkeeping and ethics.

19. Despite the testimony of the Respondent Bales to the contrary that the changes he made in the amended appraisal report he submitted to the Board [Complaint #17-010(A)] were not material or substantive, upon review of the appraisal reports in the files of the Board for and part of the record in Complaint #17-010(A) identified in Exhibit A (page 4, line 5, under "Discrepancy"), the Respondent Bales (assisted by Davis) made a value-changing adjustment on the amended appraisal report submitted to the Board while the original appraisal report submitted by the Respondent Bales (assisted by Davis) to the client Guild Mortgage [Complaint #17-

010(A)] made no adjustment. The original appraisal report submitted by the Respondent Bales (assisted by Davis) to the client Guild Mortgage [Complaint #17-010(A)] makes no mention of a “sunroom” while the amended appraisal report submitted to the Board recognized the presence of a “sunroom” and made a positive, upward adjustment to all sales for this attribute in the amount of \$1,500.00. Despite uniform upward adjustments to all sales, the concluded opinion of value of the Respondent Bales was not changed to take into account the sunroom.

20. Despite the testimony of the Respondent Bales to the contrary that the changes he made in the amended appraisal report he submitted to the Board [Complaint #17-010(C)], upon review of the appraisal reports in the files of the Board for and part of the record in Complaint #17-010(C) identified in Exhibit A (page 6, lines 8, 10, and 11, under “Discrepancy”), the Sales Comparison Approach reflects significant changes from the original appraisal report submitted by Respondent Bales (assisted by Davis) to the client Associated Mortgage Corporation [Complaint 17-010(C)], from the amended appraisal report submitted by Respondent Bales (assisted by Davis) to the Board. The Respondent Bales (assisted by Davis) removed original Comparable Sale 2 and replaced it with a comparable sale at a lower sales price. The original appraisal report submitted by Respondent Bales (assisted by Davis) to the client Associated Mortgage Corporation [Complaint 17-010(C)], had quality of construction adjustments in Comparable Sale 1 while the amended appraisal report submitted by Respondent Bales (assisted by Davis) to the Board removed the quality of construction adjustments on Comparable Sale 1 resulting in a \$10,000.00 adjusted value in Comparable Sale 1 in the amended appraisal report submitted by Respondent Bales (assisted by Davis) to the Board as well as altering the net adjustments in Comparable Sale 1.

These facts lead to the conclusion that the Respondent Bales improved the appraisal reports he submitted to the Board for the purpose of procuring a license for Respondent Pearce.

CONCLUSIONS OF LAW

The Board hereby adopts in full the Conclusions of Law of the Disciplinary Hearing Panel, as follows:

1. The Respondents Bales and Pearce have violated 59 O.S. §858-723(C)(6) through 59 O.S. §858-726, in that the Respondents violated:

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

B) The Record Keeping Rule of the Uniform Standards of Professional Appraisal Practice.

2. The Respondents Bales and Pearce have violated 59 O.S. §858-723(C)(1):
“Procuring or attempting to procure a certificate pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act by knowingly making a false statement, knowingly submitting false information, refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation.”

3. The Respondents Bales and Pearce have violated 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.”

4. The Respondents Bales and Pearce have violated 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”.

FINAL ORDER

WHEREFORE, having adopted in full the Findings of Fact and Conclusions of Law entered by the Disciplinary Hearing Panel, the Board hereby adopts in full the recommendation of the Panel and hereby makes its Final Order as follows:

A. As to Respondent Matthew A. Bales:

1. The appraiser credential of the Respondent Matthew A. Bales, shall be **SUSPENDED** for a period of **THIRTY (30) DAYS** from the date that any final order is entered in this matter plus a period of thirty (30) days after Respondent Matthew A. Bales, is notified of the final agency order either personally or by certified mail, return receipt requested.

2. Respondent Matthew A. Bales, shall be placed on **PROBATION** for a period of **ONE (1) YEAR** beginning immediately upon the date that the period of the **THIRTY (30) DAY SUSPENSION** as ordered hereinabove to be completed shall end. During the period of probation, Respondent Matthew A. Bales, 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 be sent for review, to include for review the appropriate work file of the Respondent Matthew A. Bales.

3. Respondent Matthew A. Bales, shall pay his one-half (½) pro-rata share of the costs expended by the Board for legal fees and travel costs incurred in the matter of Complaint #17-009(A), (B), and (C), and Respondent Matthew A. Bales, shall pay all costs expended by the Board for legal fees and travel costs incurred in the matter of Complaint #17-010(A), (B), and (C). The Board staff will provide a statement of the costs incurred as to each complaint, respectively, to Respondent Matthew A. Bales, with the final order. Costs shall be fully paid by Respondent Matthew A. Bales, within thirty (30) days from the date of any final order of the Board, plus a period of thirty (30) days after Respondent Matthew A. Bales, is notified of the final agency order either personally or by certified mail, return receipt requested.

4. Respondent Matthew A. Bales shall pay an administrative fine in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** to the Board for violations committed in Complaint #17-009(A), (B), and (C). Payment of the fine shall be remitted to the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

In addition, the Respondent Matthew A. Bales shall pay an additional administrative fine in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** to the Board for violations committed in Complaint #17-010(A), (B), and (C). Payment of the fine shall be remitted to the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

5. The Respondent Matthew A. Bales shall not serve as a Trainee Supervisor for any person and he shall have no Trainees for a period of three (3) years from the date of the final Board Order plus a period of thirty (30) days after the Respondent Matthew A. Bales is notified of the final agency order either personally or by certified mail, return receipt requested.

6. Failure by Respondent Matthew A. Bales, to comply with any requirement of this order shall result in his appraisal credential being suspended instantly, with notification forwarded immediately to Respondent Matthew A. Bales, either personally or by Certified U. S. mail, return receipt requested.

WHEREFORE, having adopted in full the Findings of Fact and Conclusions of Law entered by the Disciplinary Hearing Panel, the Board hereby adopts in full the recommendation of the Panel and hereby makes its Final Order as follows:

B. As to Respondent Garrett S. Pearce:

1. The appraiser credential of the Respondent Garrett S. Pearce, shall be **SUSPENDED**

for a period of **THIRTY (30) DAYS** from the date that any final order is entered in this matter plus a period of thirty (30) days after Respondent Garrett S. Pearce, is notified of the final agency order either personally or by certified mail, return receipt requested.

2. Respondent Garrett S. Pearce, shall be placed on **PROBATION** for a period of **ONE (1) YEAR** beginning immediately upon the date that the period of **THIRTY (30) DAY SUSPENSION** as ordered hereinabove to be completed shall end. During the period of probation, Respondent Garrett S. Pearce, 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 be sent for review, to include for review the appropriate work file of the Respondent Garrett S. Pearce.

3. Respondent Garrett S. Pearce, shall pay his one-half ($\frac{1}{2}$) pro-rata share of the costs expended by the Board for legal fees and travel costs incurred in the matter of Complaint #17-009(A),(B), and (C). The Board staff will provide a statement of the costs incurred as to each complaint, respectively, to Respondent Garrett S. Pearce, with the final order. Costs shall be fully paid by Respondent Garrett S. Pearce, within thirty (30) days from the date of any final order of the Board, plus a period of thirty (30) days after Respondent Garrett S. Pearce, is notified of the final agency order either personally or by certified mail, return receipt requested.

4. Respondent Garrett S. Pearce shall pay an administrative fine in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** to the Board. Payment of the fine shall be remitted to the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

5. Due to the requirements of Board Rule OAC 600:10-1-16(e) that a supervisory appraiser be a State Certified General Appraiser or a State Certified Residential Appraiser on a

credential issued by the Board for a period of at least three years, the Respondent Garrett S. Pearce, a certified residential appraiser, who was first licensed with the Board on March 20, 2017, shall not serve as a Trainee Supervisor for any person and he shall have no Trainees for a period of five (5) years from the date of the final Board Order plus a period of thirty (30) days after the Respondent Garrett S. Pearce is notified of the final agency order either personally or by certified mail, return receipt requested.

6.Failure by Respondent Garrett S. Pearce, to comply with any requirement of this order shall result in his appraisal credential being suspended instanter, with notification forwarded immediately to Respondent Garrett S. Pearce, either personally or by Certified U.S. mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENTS, THAT EACH ONE RESPECTIVELY, HAS 30 DAYS FROM THE DATE HE OR SHE IS FIRST NOTIFIED OF THIS ORDER, EITHER PERSONALLY OR BY CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED, TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED on this 7th day of March, 2018

Eric M. Schoen

ERIC SCHOEN, Administrative Officer
Real Estate Appraiser Board

3-7-2018

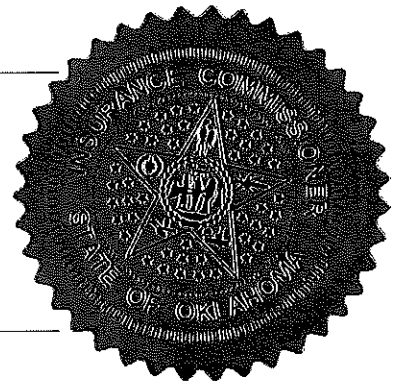
Date

Bryan Neal

BRYAN NEAL
Assistant Attorney General and
Attorney for the Board

3/7/18

Date



CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 21st day of March, 2018 a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Daniel J. Gamino & Assoc.
James Town Office Park, N. Bldg
3035 NW 63rd Street, Suite 214
Oklahoma City, OK 73116
Attorney for Respondents

7016 0340 0000 7986 5215

and that copies were forwarded by first class mail to the following:

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, OK 73105

Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 N. Lincoln Boulevard
Oklahoma City, OK 73105


CHRISTINE MCENTIRE



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

RECEIVED
OKLAHOMA INSURANCE DEPT.

MAR 20 2018

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2018-93A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 N.W. 56th St., Ste. 100
Oklahoma City, OK 73112

March 20, 2018

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Real Estate Appraiser Board intends to take with respect to licensees 12894CRA and 13234CRA. 12894CRA served as supervisor to 13234CRA during the relevant event. The licensees failed to comply with the Uniform Standards of Professional Appraisal Practice ("USPAP") when preparing an application for a Certified Residential Appraiser credential. The Board proposes to suspend both licensees for 30 days, require both to complete one year of probation, and pay prosecutorial costs and fines, and to ban both licensees from supervising any trainees for three years.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board "[t]o censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in [the Act,]" *see* 59 O.S.Supp.2017, § 858-706(7), and to require payment of fines and costs and the completion of educational programs. *Id.* § 858-723(A)(7)-(9). The Board may discipline licensees who "[v]iolat[e] any of the provisions in the code of ethics set forth in [the] Act." *Id.* § 858-723(C)(13). The Act requires adherence to the USPAP, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may reasonably believe that the proposed action is necessary to prevent future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Real Estate Appraiser Board has adequate support for the conclusion that this action advances the State's policy to uphold standards of competency and professionalism among real estate appraisers

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL