

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

In the Matters of PAUL E. PRYOR)	
)	Complaint #20-042
Respondent.)	

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

ON THE 5th day of November 2021, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board" or "OREAB"). The above-numbered and entitled cause came on for hearing previously on the 26th day of July 2021. The Board was represented by a Disciplinary Hearing Panel composed of three (3) appraiser members, Nena W. Henderson, of Edmond, Oklahoma, Stephen Meyer of Oklahoma City, Oklahoma, and David A. Curtis, of Oklahoma City (now Edmond), Oklahoma, each of whom is a current Member of the Board's Standards and Disciplinary Procedures Committee. Nena Henderson 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, Paul E. Pryor of Bartlesville, Oklahoma ("Respondent"), who does business as PCS Appraisals, Inc., having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel in Complaint No. 20-042 (the "Notice") by first class U.S. certified mail with return receipt requested to his last-known business and/or residence address on May 24, 2021, 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 on July 26th, 2021, the Respondent appeared in person in the hearing and was represented by Rachel Lawrence Mor, Attorney at Law, of Oklahoma

City, Oklahoma.

The Respondent, through his Attorney, 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 had an Exhibit Book with seven (7) exhibits that he identified and marked as: (1) Exhibit 1, the Grievance and Subject Report [Respondent's subject appraisal report]; (2) Exhibit 2, Work Product Review report prepared by an appraiser witness he intended to call named Betty Jo Cagle who examined the Respondent's appraisal report; (3) Exhibit 3, MLS Data from Sales found in Report [subject appraisal report]; (4) Exhibit 4, Market Analysis Summary; (5) Exhibit 5, Sales in Subject's Neighborhood – Year Prior to the Effective Date; 1,600 to 2150 SF; (6) Sales Found in Subject [Report] [appraisal report] by Respondent – Property Similar in Size to Subject (not used by Respondent); and, (7) Exhibit 7, Data Pool of Sales. In addition, the Board's Prosecutor identified and marked as (8) Exhibit 8, the Washington County Assessor's page for 1325 Melmart Drive, Bartlesville, Oklahoma {subject property). Counsel for the Respondent stated that the Respondent had no objection to the admission of the Board's Exhibits 1 through 7 as presented in the Exhibit Book with the seven (7) exhibits, together with the Board's Exhibit 8.

The Board's Prosecutor subsequently moved for the admission of the seven (7) exhibits for the Board marked as Exhibits 1, 2, 3, 4, 5, 6, and 7, respectively, together with Board's Exhibit 8, to which there was no objection by the Respondent. Accordingly, the Board's eight (8) exhibits were admitted into evidence.

An examination of the Exhibit Book with its seven (7) exhibits, consisted of the following (with pages Bates-stamped in Exhibits 2 through 6):

Exhibit 1 consisted of a document identified to be the Grievance by Fannie Mae Quality Loan Center (Exhibit 1, page 1), and the Respondent's (signed) written Subject Appraisal Report (*See* Exhibit 1, page 7) on the subject property (1325 Melmart Drive, Bartlesville, Oklahoma) with an effective date of June 12, 2019 (Exhibit 1, pages 2 – 24), presented in the form of a Revised Appraisal Report dated July 3, 2019 (*See* note entitled "Additional Field Text", Exhibit 1, page 9) with an Opinion of Value of \$206, 000.00 attached.

Exhibit 2 was an Appraisal Work Product Review Report on a form created by the Board, prepared by an appraiser witness and Board investigator he intended to call named Betty Jo Cagle (Exhibit 2, pages 001 - 007).

Exhibit 3 was MLS Data from Sales Used by the Respondent in the Respondent's subject property appraisal report (*See* Exhibit 1, pages 2 – 24) prepared by an appraiser witness he intended to call named Betty Jo Cagle (Exhibit 3, pages 001 – 007).

Exhibit 4 was a Market Analysis Summary- Residential prepared by an appraiser witness and Board investigator Mr. McCaleb intended to call named Betty Jo Cagle (Exhibit 1, pages 001 - 004).

Exhibit 5 consisted of Sales in the subject property's neighborhood – year prior to the effective date of the Respondent's appraisal report (Exhibit 1, pages 2 - 24), containing data on sales prepared by an appraiser witness Mr. McCaleb intended to call named Betty Jo Cagle (Exhibit 5, page 001).

Exhibit 6 consisted of the Sales Found by Betty Jo Cagle in the Subject Property's neighborhood as described by the Respondent in his written appraisal report – Property Similar in Size to Subject Property (1325 Melmart Drive, Bartlesville), but not used by Respondent as comparable sales (Exhibit 6, page 001 – 021).

Exhibit 7 (not listed in Exhibit Book Table of Contents, but included as an exhibit in the Exhibit Book containing 7 exhibits) entitled "Data Pool of Sales" (Exhibit 7, pages P1 to P14).

Exhibit 8 (not located in Exhibit Book with other 7 exhibits) Washington County Assessor's page for 1325 Melmart Drive, Bartlesville [subject property] (Exhibit 8, pages 1 – 3).

Counsel for the Respondent entered an oral Stipulation that as to the Highest and Best Use allegation of fact No. 18 contained in the Notice, that the Respondent conceded that he did not write any explanation or report as to how and why he arrived at the highest and best use.

Neither the Respondent nor the Board as parties to these proceedings requested that a court reporter record this matter and neither the Respondent 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.

The Respondent through the course of this proceeding presented four (4) exhibits as part of his defense in this matter.

The exhibit marked as Exhibit R1 is a single page List of Improvements.

The exhibit marked as Exhibit R2 is a copy of the Notice.

The exhibit marked as Exhibit R3 consists of MLS Data sheets printed in color provided by the Respondent (Exhibit R3, pages 1 – 7).

The exhibit described by the Respondent as Exhibit R4 was initially marked as Exhibit R1 (and subsequently renumbered by Respondent's counsel as 1P) was a copy of a document represented to be a duplicate copy of the Respondent's written appraisal report that was a more legible copy of the Respondent's written appraisal report yet upon closer examination by a Hearing Panel Member, it was noted in the Hearing that Exhibit R4 contained no Respondent signature (*See* page 6 thereof). There being no objection, all four (4) of the Respondent's exhibits were admitted into evidence.

OPENING STATEMENTS (SUMMARY)

The Board's Prosecutor opened by reading aloud the first paragraph of the Preamble to the

Uniform Standards of Professional Appraisal Practice (USPAP) 2018-2019 Edition, page 1, lines 1 through 4, as follows:

The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

Subsequently the Board's Prosecutor proceeded to read out loud the USPAP Ethics Rule, 2018-2019 Edition, page 7, lines 190 and 196-197, in pertinent part, as follows:

An appraiser:

- must not use or communicate a report or assignment results known by the appraiser to be misleading or fraudulent;

After that, the Board's Prosecutor referred to USPAP Standard Rule 2, lines 574 – 575, 2018-2019 Edition, page 20, that he said requires that an appraisal report must be communicated in a manner that is not misleading, and which USPAP Standard Rule 2 reads as follows:

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

The Board's Prosecutor noted that the Respondent only had one comparable sale that was located in the neighborhood as defined by the Respondent.

The Respondent's Attorney opened by stating that she wished to reserve time to discuss the evidence at the conclusion of the hearing, that the Respondent wrote no summary of the highest and best use, and that the Respondent's evidence would be produced via Exhibits.

WITNESSES AND EVIDENCE PRESENTED

The Board's Prosecutor presented two witnesses in support of the case against the Respondent: (1) Betty Jo Cagle, an Oklahoma Certified Residential Appraiser, 10179CRA, and a Board investigator; and (2) the Respondent Paul E. Pryor.

The Respondent testified on his own behalf in his defense and presented one other witness, Betty Jo Cagle, an Oklahoma Certified Residential Appraiser, 10179CRA, and a Board investigator, who appeared under subpoena for each party herein.

Betty Jo Cagle Testimony (Summary)

It should be noted that Betty Jo Cagle testified under subpoena for both the Board and for the Respondent all together at one time. Betty Jo Cagle, upon being duly sworn in, testified that she is an Real Estate Appraiser and reviewer, that she is a Board Investigator, that she is licensed as a Certified Residential Appraiser, that she is a USPAP Instructor and has been such an instructor for at least 15 years, she has been an appraiser since 1984, that she is an SRA with the Appraisal Institute (which is a professional organization), that she has a contract with Board to do work product review reports, that in connection with performing such reports for the Board, she looks for any violations of USPAP, that in connection with her investigation of this matter that she researched all sales that were used and that she also researched comps for the area, and that she does not know the Respondent.

Ms. Cagle noted that the Respondent's appraisal report has an effective date of June 12, 2019 (Exhibit 1, page 2 – 24), that the version of the Respondent's appraisal report she was provided was signed July 3, 2019, that the Respondent used a Uniform Residential Appraisal Report (URAR) form that was not USPAP compliant (URAR Form 1004) for his appraisal report, that the Respondent certified that he complied with the Uniform Standards of Professional Appraisal Practice (USPAP), and that in her opinion the Respondent's appraisal report was misleading

Continuing, Ms. Cagle testified that in the Respondent's appraisal report at Exhibit 1, page 2, that the subject property was 1325 Melmart Drive, Bartlesville, that the subject property was not listed in the Multi-List Service (MLS), that the sale of the subject property was a sale by Owner, that the Days on Market (DOM) was zero, that the subject property was not listed in 12 months, that the sales price of the subject property was \$215,000, but that she was not sure from the appraisal report how the sales price was determined. According to Ms. Cagle, the Washington County Assessor's page for 1325 Melmart Drive, Bartlesville (Exhibit 8), discloses a previous sale of the subject property on May 21, 2015, for \$150,000, that the sale of the subject property on July 11, 2019, is an increase of \$65,000, that it's prudent for an appraiser to ask questions as to why there was so much of an increase, even though USPAP only requires an appraiser to go back three years, and that she believes the reader of the appraisal report needs an explanation.

As to the Respondent's appraisal report at Exhibit 1, page 2, the "Improvements Section", Ms. Cagle noted that the Respondent's reference to the kitchen remodel improvements listed as being in C 3 condition, it was a good example, it's better to provide detail on the remodels of both kitchens and bathrooms, and in this case, the Respondent's descriptions leaves questions.

As to Exhibit 5, Sales in the Respondent's described neighborhood in which the subject property is located, Ms. Cagle noted that in compiling this data, she used the neighborhood boundaries determined by the Respondent, that her data includes all sales with a similar square footage to that of the subject property, and that she found different prices.

Back to the Respondent's appraisal report, Exhibit 1, page 3, Sales Comparison Approach, the Respondent needs to provide explanations for his adjustments.

As to the Respondent's Exhibit 1, page 4, Cost Approach, the Respondent's listed site value is not a proper technique, that there was no summary of sales, that his determination of depreciation

at 20% seems high for a house that has been remodeled, that the Respondent provided no list of what repairs were still needed, that the Respondent noted he used both MS (Marshall & Swift) and Local Cost in his Cost Approach, but he did not provide any way for the reader to replicate his use of Marshall & Swift, that a reader must be able to replicate the information from a Marshall and Swift construction pricing report, and that an appraiser can print out a sheet from Marshall and Swift report and place the copy in the appraisal report.

Ms. Cagle noted that the Respondent used a total of six (6) sales as comparable sales in his appraisal report (Exhibit 1, pages 3 and 8) with three sales on page 3 and the other three sales on page 8, and that only one of his six (6) comparable sales was actually located in the subject property's neighborhood as that neighborhood was described by the Respondent on the first page of the appraisal report (Exhibit 1, page 2).

As to Exhibit 7, page 1, the Data Pool of Sales, is based on information from the Respondent's work file, which sales appear to have been run by the Respondent by their sales price to arrive at a certain value, its better according to Betty Jo Cagle, to do this by your neighborhood's sales.

As to Exhibit 6, according to Ms. Cagle, these are the Sales she researched, she throws out those sales that are not comparable, this list is a list of sales that could be most comparable, these are her 21 Multi- List Service (MLS) data sheets, she reads the comments, and looks for those sales that are the most comparable to the subject property. As examples, Ms. Cagle noted that the sale in Exhibit 6, page 015 (1400 Grandview Road, Bartlesville), had upgrades and was remodeled, that the sale in Exhibit 6, page 016 (916 Lariat Drive, Bartlesville), included an updated shower and updated vanity, and that the sale in Exhibit 6, page 17 (4812 Rolling Meadows Road, Bartlesville), was described as "move-in ready" would prompt her to call the Real Estate Agent listed for more information. Further, Ms. Cagle noted that the subject property had 1,892 square feet and that she found no other sales

under \$200,000.

As to a statement about the Income Approach in the Respondent's appraisal report (Exhibit 1, page 3, Reconciliation Section), Ms. Cagle stated that in a city the size of Bartlesville, there are rental properties, that the Respondent's statement that there are no rentals just is not true, and that the Respondent needs to explain why he did not develop the Income Approach.

As to the appraisal report being a "revised" appraisal report as disclosed in a note in Exhibit 1, page 9, it's a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) for the Respondent to not submit to the Board, as part of his work file, the initial appraisal report submitted to the client and only submit a revised appraisal report to the Board as Respondent has done in this case [referring to the USPAP Record Keeping Rule].

On cross-examination, Ms. Cagle noted that she used to be a member of the Board, that she was never on the Board's Probable Cause Committee (PCC), that she served as a review appraiser for upgrades before she became a member of the Board, that she was appearing under subpoena by both sides in this matter, that as a Board investigator under contract she gets an appraisal report from the Board's Prosecutor for her analysis and reports her comments through a written work product review on the Board's form "Work Product Review" (Exhibit 2, pages 001 – 007), that she has no website, and that she did not look at the subject property.

In response to a question, Ms. Cagle stated that in this matter, the appraiser's job was to come up with a market value.

In response to another question, Ms. Cagle noted that the Board gave her a copy of what the Respondent had provided to the Board as his work file on the subject property, that the Respondent's Exhibit 1 "List of Improvements" was not in the Respondent's work file, and that, while the improvements list was a good list, she had not seen the Respondent's Exhibit 1 before.

When asked about an appraiser either including a thorough list of improvements in his appraisal report or in his work file, Ms. Cagle noted that a client doesn't have a copy of an appraiser's work file, that the appraisal report is what a client reads, and, after acknowledging a few exceptions, stated that no one calls an appraiser for more information from an appraiser's work file.

In response to a question as to whether she reviewed the Respondent's Data Pool of Sales (Exhibit 7, page P1) that was in the Respondent's work file as provided to the Board, Ms. Cagle noted that she has the Respondent's Data Pool of Sales that she referred to in her Work Product Review report (Exhibit 2, page 5), and that sometimes in such reports, she provides comments to an appraiser for the future.

As to questions about her Work Product Review report (Exhibit 2, page 6), Ms. Cagle noted that the Respondent did not explain his first appraisal report that he did not provide to the Board, that the Respondent's change to his first appraisal report that he claimed to be only a correction of a typo was not just a typo as he deleted a listed comparable sale through his revised appraisal report (Exhibit 1, page 9) from his first appraisal report, that was material, and not just a typo.

On redirect, in response to a question, Ms. Cagle noted that her review was basically just a desk review of the Respondent's appraisal report [Exhibit 1, pages 2 – 24, "Revised Appraisal Report" dated July 3, 2019] and that she did not agree with the Respondent that his change to his first appraisal report [effective date June 12, 2019, Exhibit 1, page 9] was a "typo revision" when he deleted a comparable sale in his "revised appraisal report" (Exhibit 1, page 9, revised appraisal report signed and dated July 3, 2019).

In response to another question, Ms. Cagle stated that while she read the Fannie Mae grievance against the Respondent [filed with the Board on September 1, 2020] (Exhibit 1, page 1) as part of her review, she does not base her opinion of USPAP violations on the grievance allegations

and noted that she can and does independently determine USPAP violations.

Ms. Cagle noted that she never received a copy of the Respondent's first appraisal report, that Exhibit 3 are the sales she found, that Exhibit 4 is a Current Market Analysis (CMA) of all sales the Respondent found in the neighborhood he defined in his appraisal report (Exhibit 1, page 2, Neighborhood Section), that Exhibit 6 is a print out of sales, that Exhibit 6 is documentation from the Respondent's work file, that USPAP requires him to list his prior appraisal report [first appraisal report], and that as to Exhibit 7, no parameters are listed and the Respondent doesn't say why no parameters are listed.

Paul E. Pryor Testimony (Summary)

It should be noted that the Respondent testified as a witness for the Board and as a witness in his own defense all together at one time. The Respondent, Paul E. Pryor, upon being duly sworn in, testified that he originally is from Kansas City, that he's lived in Bartlesville for the last ten (10) years, that he does 32 appraisals a week, that he appraises in Bartlesville, Ponca City, and in Tulsa, that he did write more than one version of his appraisal report, that he has 2 versions of his appraisal report, that his client ARVEST wanted a different comparable sale from his first appraisal report, that he had a typo on his sales price of the subject property (Exhibit 1, page 9), that a good starting point was the 2015 sale of the subject property, that the owner bought the subject property for \$150,000, that the seller put \$60,000 into the subject property, that the seller added \$5,000 for property appreciation, which is the way the seller and the buyer determined the sales price of the subject property of \$215,000, and that such a determination of sales price is not the way he appraises the value of property.

As to his revised appraisal report (Exhibit 1, page 2, Improvements Section), the Respondent stated that he verified that the improvements were made, improvements such as Pella Windows were an update, that a new entry door was a replacement and not an upgrade.

As to his site value opinion of \$30,000 in the Cost Approach in Exhibit 1, page 4, the Respondent stated that his site value sales are located in his work file, that way his \$30,000 site value opinion can be replicated without such site value sales information being included in his appraisal report is to call him for the information, and that since late 2019, he places site sales information in his appraisal reports.

As to his including only one comparable sale from his Respondent-defined “neighborhood” in his appraisal report, the Respondent said he had to go to property located south of his defined “neighborhood”, and when asked if he provided any explanation in his appraisal as to the reason he had to go outside his neighborhood for , the Respondent said no, he did not.

As to his decision to not develop the Income Approach (Exhibit 1, page 4) as he claimed in his appraisal report (Exhibit 1, page, 3 Reconciliation Section) based on a lack of rental data in the market, the Respondent stated that you can’t generate data for a Gross Rent Modifier (GRM), but now he modifies his appraisal reports as to the income approach.

In response to a question as to his first appraisal report [effective date June 12, 2019, Exhibit 1, page 9], the Respondent stated that he does not have a copy of his first appraisal report as it was changed when he visited with his client ARVEST who wanted a change in a comparable sale, and that he is now aware that he should have a copy of all of his appraisal reports in his work file. According to the Respondent, the changes he made to his first appraisal report (*See* Exhibit 1, page 9, disclosures), included first a typo change in the numbers listed as the subject property purchase or sales price due to his transposition of the numbers to the correct contract sale price of \$215,000 as the purchase price did not change. The second change he made to his first appraisal report is the comp sale change as [his lender/client] ARVEST’s reviewer wanted changes so Fannie Mae would rate it better, that both he and the ARVEST reviewer found a better comparable sale (*See* Exhibit 1, page 9,

removed Comp Sale #5 and replaced with a new Comp Sale #5), but now he would add a seventh (7th) Comp Sale, after the USPAP Advisory Opinion.

The Respondent, in response to a question, stated that he began appraising property in 1984 in Kansas City, Missouri, that he learned to appraise through his father who was a local contractor, that at one time he was licensed as an appraiser in Kansas, Oklahoma, and in Missouri, that he is currently inactive as an appraiser in Missouri, that he has let his Kansas license go, and that he now is only licensed as an appraiser in Oklahoma, that he began appraising in Oklahoma in July 2011, and that he appraises in Tulsa, Bartlesville, and in Ponca City.

According to the Respondent his problem as an appraiser, was the \$60,000 of improvements made to a 3-car garage and a 2-car shop building with a driveway to it. The photos in Exhibit 1, at page 15, shows that the seller thought he would live there forever, that the shop building was kind of a showroom with a classic car and classic signage. He chose his Comp Sale 6 because it had a 2-car garage and a 2-car shop.

The Respondent said his Comp Sale 1, 1905 Barnett Court, was in good condition, the house was only ten years old, it was in a 3-car neighborhood (Southern Hills), and he made adjustments as to age as compared to the subject property.

The Respondent said he chose his Comp Sale 2, 4422 Fairview Rd., also based on quality and condition as he did his Comp Sale 1, that it was larger than the subject property, that it was only 13 years old, that he made adjustments for age and size, and that it was located in Rolling Hills, a neighborhood south of his subject neighborhood across the street.

The Respondent said he chose his Comp Sale 3, 4610 SE Barlow Place, as it had a pool he used as an offset for a shop building, and that it was located in Rolling Hills, a neighborhood south of his subject neighborhood across the street.

The Respondent said he chose his Comp Sale 4, 4222 Fairview Rd., which was also located in Rolling Hills, a neighborhood south of his subject neighborhood across the street.

The Respondent said his Comp Sale 5, 1400 Melmart Drive, was located in West Ranch Acres, that the quality was still good, that it had nice trim and windows, that it was larger, 3 bedrooms, and the best he could find.

As to his Comp Sale 6, 1827 S. Madison Blvd., the one he used as a replacement at the request of his Lender/Client ARVEST, it was located next to Rolling Hills but not really located in a “neighborhood”.

As to the Respondent’s Exhibit 1, the list of improvements was strictly a list from the seller of the subject property, that he stays away from brand names such as stating, “thermal windows” installed rather than “Pella Windows”, that it did not have a new fence, that concrete work had been done, that the lawn sprinkler was there, and that it had new interior paint.

In response to a question about prior complaints against him, the respondent said that he did have a complaint once from Kansas that was dismissed without a hearing, and that this complaint was his first after 18,000 appraisals.

The Respondent proceeded to address the Notice’s listed “Allegations of Fact,” beginning with Allegation No. 10, by responding that the industry does not require an analysis of agreements of sale, options or listings that occurred more than 3 years ago.

As to Allegation No. 12, the Respondent said he does not understand the allegation.

As to Allegation No. 13, the Respondent said he doesn’t use “canned statements”.

With regards to Allegation No. 14, the Respondent stated that he had about 35 pages in his work file.

As to Allegation No. 16, the Respondent stated he never uses the word “immaculate”.

As to Allegation No. 17, the Respondent admitted that he did use a canned statement as to Highest and Best Use, that he did not provide a summary of Highest and Best Use, that since February 2020, he uses a Highest and best Use summary, and that he has already taken four continuing education courses; National USPAP Update, FHA, Report Writing, and Sales Comparison .

With regards to Allegation No. 22, the Respondent noted that as to the cost approach, new construction is low in Bartlesville.

As to Allegation No. 23, the Respondent said that he did not know what it means.

With regards to Allegation No. 24, the Respondent said that that he did not use Marshall & Swift for cost pricing as he has local costs from local vendors and builders in Bartlesville and now in Ponca City since he's been appraising for a while in Ponca City.

As to Allegation No. 25, the Respondent stated that he's a rebel, that in his classes in the eighties Total Economic Life of houses was 60 years due to construction of "tract" homes, that its now 2021, that those houses have value still, they are still standing, and as a result, he goes with a 100-year effective life. The Respondent stated that his observation is that 60 years is not accurate, that he thinks 60 years as a Total Economic Life is misleading, and he indicated that he would even like to teach a course on this topic.

As to Allegation No. 26, the Respondent said there are 9 different ways to do the cost approach, that he doesn't expect his intended user to replicate his work as that is his job as the appraiser.

As to Allegation No. 27, the Respondent said that the allegation seems like an opinion to him.

As to Allegation No. 28, the Respondent claimed he talked about the income approach.

With regards to Allegation No. 31, the Respondent said that there were on sales of rental properties.

As to Allegation No. 32, the Respondent claims he did so, that with regard to the quality and quantity of data available and analyzed with the approaches used, the Respondent stated it was adequately reconciled.

With regards to Allegation No. 34, the Respondent stated his belief that his comparable sales were correct.

As to Allegation No. 35, the Respondent responded that his Client was not confused.

As to Allegation No. 36, the Respondent stated that he's never heard this before, an allegation that he does not understand the appraisal process.

With regards to Allegation No. 39, the Respondent claimed that he was not negligent, that he was not under-appraising the property, and indicated his belief that this one would cause trouble.

As to Allegation No. 40, the Respondent stated that in his mind there was only one appraisal report he submitted, that he only replaced one comp sale at the request of his client ARVEST, that the buyer paid more money, and he gave his client ARVEST a better collateralized property.

With regards to Betty Jo Cagle's comparable sales, the Respondent asserted that her comp sales were not organized as to quality and condition, that only three comp sales that Betty Jo Cagle found were comparable as they have some updates, and that his sales were all based on price per square foot.

On redirect, the Respondent in response to a question, stated that as to his determination of construction costs for the cost approach, he's talked with local builders, that he does not keep their names, just their dollar per square foot, admitted that the dollar per square foot amounts are not in his work file nor are the names of such local builders in his work file

In response to a question about why his Respondent's Exhibit R-4 appraisal report [Respondent's substitution copy] is not signed by him, the Respondent stated that most of his appraisal

reports are signed and are contained in the a la mode, inc. vault, but this appraisal report (Exhibit R-4, marked initially as R-1 and renumbered as 1P by the Respondent) is in his computer.

In response to a question about his Cost Approach in which the Respondent claims in his appraisal report (Exhibit 1, page 4, Cost Approach Section) that in this appraisal he used both MS [Marshall & Swift] and Local Cost, that now he has dropped the reference to MS in his appraisal reports.

In response to a question about the location of the five (5) comparable sales he used outside the boundaries of his neighborhood (*See* Exhibit 1, page 2), the Respondent said that one of his comp sales was located north of Nowata Road, and that three of his comp sales were located south of Nowata Road.

In response to the question if he did only use one comp sale in his neighborhood (Exhibit 1, page 2), the Respondent agreed that he did not use but one comp sale located in his neighborhood as a comp sale and that he provided no explanation of this in his appraisal report.

At this point, both the Board and the Respondent rested.

In his closing statement the Board's Prosecutor noted that under the Board's Rules, OAC 600:15-1-11, the Hearing Panel Members is able to exercise their specialized knowledge as appraisers in their evaluation of the testimony and evidence presented in this matter.

In the Respondent's closing statement, his Attorney noted that the Respondent takes this matter very seriously, that he is always learning as are members of the Hearing panel, that he takes continuing education courses every year, and that he has admitted to some of his errors.

The Respondent timely requested oral argument before the Board. Both Rachel Mor, counsel for the Respondent, and the Respondent appeared to address the Board. Oral argument was presented by Ms. Mor, and the Stephen L. McCaleb, the Board's prosecuting attorney.

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, PAUL E. PRYOR, is a certified residential appraiser in the State of Oklahoma, holding certificate number 12910CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 7, 2011.

FINDINGS OF FACT

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

1. The Respondent, PAUL E. PRYOR, is a certified residential appraiser in the State of Oklahoma, holding certificate number 12910CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on March 7, 2011.

2. In June of 2019, the Respondent was hired to complete an appraisal (the "appraisal") for a property located at 1325 Melmart Drive, Bartlesville, Washington County, Oklahoma 74006 (the "subject"). The Lender/Client was ARVEST. The Respondent completed the appraisal with an effective date of June 12, 2019 (the "appraisal report") (Exhibit 1, pages 2-24). The assignment type was for a purchase transaction". The appraisal and appraisal report were

represented by the Respondent to have been performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) (Exhibit 1, page 6).

3. The Respondent committed a series of errors in the appraisal report which led to a misleading and non-credible appraisal report. These errors include, but are not limited to, the following in paragraphs 4-23.

GENERAL

4. The Respondent put in his appraisal report questionable and inconsistent comparable adjustments with lack of support (Exhibit 1, pages 3 and 8).

5. The Respondent provided the Board an incomplete work file in violation of the Uniform Standards of Professional Appraisal Practice (USPAP) Record Keeping Rule with no support for his conclusions due to, including, but not limited to, his failure to include all versions of the appraisal reports submitted and failed to provide sources, methodology, and documentation, for completion of the Cost Approach (Exhibit 1, page 4, Cost Approach Section).

SITE/HIGHEST AND BEST USE

6. The Respondent does not have any comments on the highest and best use. To conform with USPAP, the Respondent must do more than “check the box” on the Uniform Residential Appraisal Report (URAR). There must be a few sentences about how and why the Respondent arrived at the highest and best use (Exhibit 1, page 2, Site Section).

IMPROVEMENTS

7. The relevant characteristics of improvements and any effect they have on value were not adequately described in regard to quality and condition (Exhibit 1, page 2, Improvements Section).

COST APPROACH

8. The site value was neither developed nor disclosed by the Respondent by an appropriate appraisal method or technique (Exhibit 1, page 4, Cost Approach to Value Section).
9. The Respondent did not identify and correctly analyze depreciation items (Exhibit 1, page 4).
10. The Respondent did not correctly employ recognized methods and techniques (Exhibit 1, page 1).
11. The intended user (Exhibit 1, page 2, Subject Section [Lender/Client: Arvest]) has to be able to duplicate the Cost Approach (Exhibit 1, page 4). Neither the Respondent's appraisal report nor the Respondent's work file contain sufficient information to duplicate the Cost Approach.

SALES COMPARISON APPROACH

12. The Respondent did not analyze comparable sales data and use appropriate appraisal methods and techniques that support the conclusions (Exhibit 1, pages 3 and 8, Sales Comparison Approach Section).
13. Adequate reasoning was not provided for adjustments, analysis, opinions and conclusions (Exhibit 1, pages 3 and 8).
14. The Respondent did not correctly employ recognized methods and techniques In the Sales Comparison Approach (Exhibit 1, pages 3 and 8).
15. Of the six (6) sales on the Respondent's appraisal report, only one is from the subject's neighborhood as defined by the Respondent on page 1 of the appraisal report (See Exhibit 1, page 2, Neighborhood Section). The list of 17 properties as the "data pool of sales" (Exhibit 7, page 1) provided by the Respondent from the Respondent's work file shows only sales from

\$165,000 to \$235,000, of which 16 were outside the Respondent's defined neighborhood (Exhibit 1, page 2). A Board review [through Board investigator] (Exhibit 2, page 005) questions why the Respondent did not show all the sales in the subject's neighborhood similar in size. The Board review [through Board investigator] (Exhibit 2, page 005) found 21 sales in the subject's neighborhood (as defined by the Respondent) between 1,600 and 2,150 square feet while the subject property was 1,892 square feet (*See* Exhibit 1, page 8). These sales ranged from \$120,000 to \$159,000. A Board review [through Board investigator] (Exhibit 2, page 005) could not find any sales in the immediate area that were under 2,100 square feet that were located in the subject's neighborhood and priced above \$159,000. Respondent's Sale No. 5 (*See* Exhibit 1, page 8) is from the subject's immediate area. It sold for \$169,000 (*See* Exhibit 3, page 005, [1400 Melmart Drive, Bartlesville]) but has 2,451 square feet compared to the subject's 1,892 square feet. (Exhibit 2, page 005; *See also* Exhibit 1, page 8).

INCOME APPROACH

16. The Respondent states that the income approach was not used (Exhibit 1, page 3, Reconciliation Section). The explanation that the approach [income approach] was not used due to the lack of rental data is not sufficient. (Exhibit 1, page 3).

FINAL RECONCILIATION

17. The quality and quantity of data available and analyzed within the approaches used was not adequately reconciled (Exhibit 1, page 3, Reconciliation Section).

18. The applicability and suitability of the approaches used to arrive at the value conclusions was not adequately reconciled (Exhibit 1, page 3).

GENERAL REVISITED

19. The appraisal report results were misleading (Exhibit 1, pages 2 - 24).

20. The Respondent does not understand the appraisal process.
21. The appraisal report (Exhibit 1, pages 2 - 24), does not contain sufficient information to enable the client to understand it properly.
22. The salient and factual data reported and analyzed was not reported in a consistent manner in the appraisal report (Exhibit 1, pages 2 – 24).
23. The Respondent violated the Uniform Standards of Professional Appraisal Practice (USPAP) by deleting a comparable sale after the signed appraisal report was sent to the client (Exhibit 1, page 9, “Revised Appraisal Report dated 7/3/2019”), which sale was considered by the Respondent to be a “relevant sale” at the time of its submission (*See* USPAP FAQ No. 132, page 245, copy attached as Exhibit A).

CONCLUSIONS OF LAW

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

1. The Respondent Paul E. Pryor has violated 59 O.S. §858-723(C)(6) through 59 O.S. §858-726, in that the Respondent violated:
 - A) The Ethics Rule and 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) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
 - D) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, and 1-6; Standard 2,

Standards Rules 2-1, and 2-2 of the Uniform Standards of Professional Appraisal Practice. These include the sub-sections of the referenced rules.

2. The Respondent Paul E. Pryor has 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”.

3. The Respondent Paul E. Pryor 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. The Respondent Paul E. Pryor 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. The Respondent Paul E. Pryor 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”.

FINAL ORDER

Having adopted in full the Findings of Fact and Conclusions of Law of the Disciplinary Hearing Panel, the Board hereby issues its Final Order as follows:

1. The Respondent Paul E. Pryor shall successfully complete corrective education as follows:

The **FIFTEEN (15) HOUR** Course Number 600: National USPAP Course.

The **FIFTEEN (15) HOUR** Course Number 612: Residential Site Valuation & Cost Approach.

The courses must all be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **SIXTY (60) DAYS** from the date of the Board Order

plus a period of thirty (30) days after the Respondent Paul E. Pryor is notified of the final agency order either personally or by certified mail, return receipt requested. The courses must be tested and may be an on-line course(s). The courses shall **not** be counted toward continuing education credit by the Respondent.

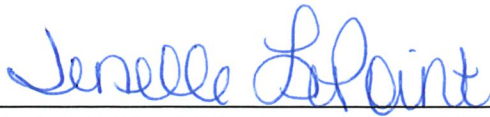
2. The Respondent Paul E. Pryor shall be placed on **PROBATION** for a period of **SIX (6) MONTHS** beginning immediately upon the date that the period of **SIXTY (60) DAYS** in which corrective education is ordered hereinabove to be completed shall end plus a period of thirty (30) days after the Respondent Paul E. Pryor is notified of the final agency order either personally or by certified mail, return receipt requested. During the period of probation, Respondent Paul E. Pryor 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 Paul E. Pryor.

3. Respondent Paul E. Pryor, shall pay to the Board a sum equal to all of the costs expended by the Board for legal fees and travel costs incurred in the matter of Complaint #20-042. The Board staff will provide a statement of the costs incurred as to the complaint, to Respondent Paul E. Pryor, with the final order. Costs shall be fully paid by Respondent Paul E. Pryor, within thirty (30) days from the date of any final order of the Board, plus a period of thirty (30) days after Respondent Paul E. Pryor, is notified of the final agency order either personally or by certified mail, return receipt requested.

4. Failure by Respondent Paul E. Pryor, to comply with any requirement of this order shall result in his appraisal credential being suspended instantaneously, with notification forwarded immediately to Respondent Paul E. Pryor, either personally or by Certified U.S. mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS 30 DAYS FROM THE DATE HE 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 5th day of November 2021



JENELLE LEPOINT, Administrative Officer
Real Estate Appraiser Board

11-5-2021
Date



BRYAN NEAL
Assistant Attorney General and
Attorney for the Board

11/5/2021
Date



132. REQUEST TO MODIFY A COMPLETED APPRAISAL REPORT

Question: I have completed an appraisal assignment for a client. The report was completed using the 2005 version of the Uniform Residential Appraisal Report (URAR). The client has requested that I remove one of the comparable properties from the report because, in the underwriter's opinion, it is not sufficiently similar to the subject property. If I do this, will my action comply with USPAP?

Response: Such an action has the potential to be misleading. Certification Item #15 of the 2005 URAR states the following:

"I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct." (Bold added for emphasis)

You initially concluded that the comparable you are being asked to remove was relevant in developing and communicating the assignment results. If this opinion has not changed, and you subsequently remove a comparable listing or sale from the appraisal report and sign the certification for this specific report format, it would likely be misleading because information you consider to be significant is being knowingly withheld.

In addition, Standards Rule 2-2(a)(viii) which addresses the content of an Appraisal Report includes the following requirement:

summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained; (Bold added for emphasis)

If the comparable is removed as requested by the client, information that was analyzed would no longer be summarized in the report as required by this Standards Rule.

133. SHELF LIFE OF AN APPRAISAL OR APPRAISAL REPORT

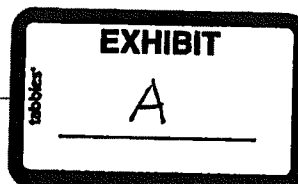
Question: I've received inquiries from some of my clients asking me how long my appraisal reports are valid. Is this addressed in USPAP?

Response: USPAP does not determine the length of time for which an appraisal or appraisal report is valid. Various users of appraisal services may establish their own requirements or guidelines for the validity period of an appraisal or appraisal report.

It is also important to note that USPAP distinguishes an appraisal from an appraisal report. An appraisal is an opinion of value while an appraisal report is any communication, written or oral, of an appraisal that is transmitted to the client upon completion of an assignment.

Two dates are essential to an appraisal report: the effective date of the appraisal and the date of the report. The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

As such, the effective date of the appraisal, the date of report, or both may be important reference points when determining when a new appraisal or appraisal report is required.





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Real Estate Appraiser Board

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2021-50A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
400 N.E. 50th St.
Oklahoma City, OK 73105-1816

November 17, 2021

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 in case 20-042, in which it is alleged that Respondent performed an appraisal that failed to meet the required standards. The Board proposes to require Respondent to complete corrective education courses, after which Respondent will be placed on a six-month probation, and to pay an amount equal to the costs expended by the Board for legal fees and travel costs incurred in this matter. Failure to comply with these requirements will result in Respondent's license being suspended.

The Oklahoma Certified Real Estate Appraisers Act authorizes the Board, upon finding a violation of the Act or Board rules, to suspend an appraiser's certificate, order the completion of educational programs, and require payment of costs expended by the Board. *See* 59 O.S.2021, § 858-723(A)(2), (7), (9). The Act requires adherence to the Uniform Standards of Professional Appraisal Practice, which contains professional requirements pertaining to ethics, competency, and scope of work. 59 O.S.2011, § 858-726. The Board may discipline licensees who violate "the standards for the development or communication of real estate appraisals as provided in the . . . Act," fail or refuse to "exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal," are negligent or incompetent "in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal," or "[w]illfully disregard[] or violat[e] any of the provisions of the . . . Act . . ." 59 O.S.2021, § 858-723(C)(6-9). 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.


JOHN M. O'CONNOR
ATTORNEY GENERAL OF OKLAHOMA


ETHAN SHANER
DEPUTY GENERAL COUNSEL

CERTIFICATE OF MAILING

I, Kelly Reynolds, hereby certify that on the 18th day of November 2021 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:

Rachel Lawrence Mor, Esq
Landmark Towers West, Ste. 1000
3555 NW 58th St
Oklahoma City, OK 73112-4723

and by First Class Mail to:

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

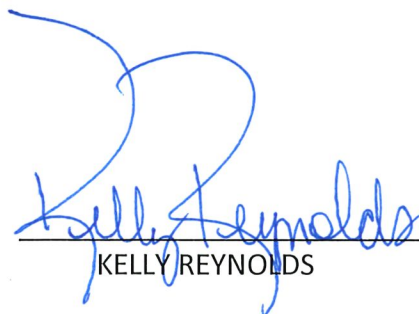
Stephen L. McCaleb
DERRYBERRY & NAIFEH
4800 N. Lincoln Boulevard
Oklahoma City, OK 73105

and via electronic mail to:

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KELLY REYNOLDS