

FILED

AUG 04 2023

Real Estate Appraiser Board
State of Oklahoma

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

In the Matter of DANIELLE BROWN,)
)
Respondent.) Complaint No. 22-027

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board ("OREAB"), by and through the Prosecuting Attorney, Stephen McCaleb, and Danielle Brown ("Respondent"), by and through her attorney of record, Justin T. King, and enter into this Consent Order, pursuant to Oklahoma Statutes Title 59 §858-700, *et seq.*, and Oklahoma Administrative Code 600:10-1-1, *et seq.* All sections of this Order are incorporated together.

AGREED FINDINGS OF FACT

1. In March of 2017, Respondent was hired to complete an appraisal (the "Appraisal") for a property located at 1808, 147th Street, Edmond, OK 73013 (the "Subject"). Respondent completed the Appraisal with an effective date of March 20, 2017. The assignment type was for a purchase transaction. The Appraisal was purportedly performed in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice.

2. Respondent committed a series of errors in the report, which led to a misleading and non-credible report.

General

3. The reporting option used was not prominently stated. Except for the pre-printed heading of the report form (Uniform Residential Appraisal Report), the Appraisal report lacked the standard "Report Option" addendum form used by Peers, or the report option was not prominently displayed within the Appraisal.

4. The Scope of Work was not sufficiently summarized to disclose to the clients the level of work used to develop the Appraisal.

5. The analysis of agreements of sale, options, or listing of Subject property current as of the effective date of Appraisal and sales that occurred within three years were not adequately summarized.

6. The certification did not include the names of persons providing significant real property appraisal assistance.

Site, Highest and Best Use

7. The site was not adequately identified/defined.
8. The 'City' location reported for the Subject property in the Appraisal report is EDMOND, however, the Subject property is actually located in OKLAHOMA CITY. Although the Subject may have an Edmond mailing address, the Appraisal should contain proper clarification regarding the parcel's actual City location, when it differs from the City in the mailing address.

Improvements

9. Relevant characteristics of improvements and any effect they have on value were not adequately described.
10. Personal property, trade fixtures or intangible items that are not real property, but included in the appraisal, were not adequately described and considered in the valuation process.
11. Respondent reported an incorrect GLA on the Subject property, overstating the GLA from 1,198 to 1,601 square feet. It appears the East side of the Subject improvement was incorrectly measured by the appraiser. This GLA miscalculation had a significant material impact on the assignment results.

Cost Approach

12. The site value was not developed by an appropriate appraisal method or technique.
13. The cost estimates were not market oriented and supported.
14. The Site value was not market oriented. The Appraisal indicated the Subject's lot value was based on County Assessor's estimated land value, and that the Subject is located in a built-out area where vacant land sales were not available. However, although it is somewhat acceptable to cite County Assessor estimated lot value in built-out developments, the Appraisal should provide further explanation regarding the County Assessor's lot value. For example, does the County Assessor's lot value estimate appear to be based on the Allocation Method (percentage based)? A simple calculation of dividing the County Assessor lot value by the County Assessor Fair Market Value on a random number of parcel records in the subdivision, from the County Assessor website, should render a tight percentage range which would be strong evidence that the Assessor employed the Allocation Method. There are also other Methods of determining lot value, such as Abstraction Method, by which lot value can be extracted from market sales, using cost minus depreciation, whenever actual land sales are not available.

15. Respondent did not identify and correctly analyze depreciation items.
16. Respondent's calculations were not correct.
17. The Appraisal based the Cost Approach on a GLA of 1,601 sf property, while the correct GLA appears to be approximately 400 sf smaller. This report deficiency had a significant impact on the assignment results.

Sales Comparison Approach

18. Respondent did not select and identify sales similar to and from the same or similar market area to the Subject's market area.
19. Respondent did not adequately collect, verify, and report comparable sales.
20. Adequate reasoning was not provided for adjustments, analysis, opinions, and conclusions.
21. Respondent did not correctly employ recognized methods and techniques.
22. The Sales utilized in the Appraisal were based on the Subject property having a GLA of 1,601 sf; however, the Subject property is apparently closer to 1,200 sf in GLA, based on a 2022 Appraisal provided by the Complainant.
23. Even if 1,601 sf was the correct GLA for the Subject property, the Appraisal lacked analysis of alternate MLS sales which are more recent than dated Sale 2, nor did the Appraisal include proper elimination or discrediting of available MLS alternate sales.
24. INADEQUATE REPORTING OF COMPARABLE SALES: The Appraisal failed to explain the GLA discrepancy on Sale 4. The Appraisal reported Sale 4 to have a GLA of 1,645 sf; however, the County Assessor reports the GLA to be 1,445 sf.
25. INADEQUATE REASONING PROVIDED FOR ADJUSTMENTS: The \$5.00 per foot condition adjustment applied to Sale 3 was inadequately explained with regard to how that figure was derived.
26. The Appraiser's Work File 1 indicates that \$32 per foot was applied to the utilized Sales for difference in GLA. However, the Board's investigation found that \$20 per foot was applied in the report, not \$32 per foot. Note that the Board's Investigation ran a Linear Regression Analysis for all Sales within the Subject Subdivision for the prior 12 months which supported a GLA adjustment of \$55 per foot.

Income Approach

27. Exclusion of the Income Approach was not supported.

28. Simply stating that an approach was not developed does not meet the USPAP requirement to state the reasons why it was not developed. Stating that an approach was not necessary, without providing some basis for that opinion, also fails to meet the requirement. The report must give some explanation of why an excluded approach is not necessary for credible results.

29. The USPAP requirement to state the reasons for the exclusion of an approach to value from the analysis is necessary to provide the client and other intended users with insight into why the analysis was not performed.

30. REPORT DEFICIENCY: Page 2 of 6 of the URAR form reports that there is insufficient data to determine the Income Approach. However, the Appraisal lacked appropriate rationale for Exclusion of Income Approach.

Final Reconciliation

31. The quality and quantity of data available and analyzed within the approaches used were not adequately reconciled.

32. The applicability and suitability of the approaches used to arrive at the value conclusion was not adequately reconciled.

33. The main issue of concern regarding the Appraisal is mismeasurement of the Subject property Gross Living Area by the Appraiser.

34. Even if the Subject property GLA was correct at 1,601 sf, as reported in the Appraisal, the Appraisal contained a number of report deficiencies within the Sales Comparison Analysis, including:

- failure to analyze the Subject's prior sale;
- failure to properly disclose and/or eliminate alternate MLS sales within 180 days in the subdivision;
- failure to explain the GLA discrepancy on Sale 4;
- inconsistent reporting of the GLA adjustment of \$32 per foot utilized, when the adjustment actually calculates out at \$20 per foot; and
- failure to adequately support the GLA adjustment. A Linear Regression run by Investigator indicates an adjustment of \$55 per foot would have been better supported.

35. Although the Appraisal reported the Sales Comparison Approach is determined to be the most reliable indicator, the Approach was flawed due to miscalculation of the Subject's GLA. The Cost Approach was also flawed as a result of the incorrect GLA.

General - Revisited

36. The Appraisal results were misleading.

37. It does not appear Respondent understands the Appraisal process.

38. The Appraisal report does not contain sufficient information to enable the client(s) and intended user(s) who receive or rely on the report to understand it properly.

39. The salient and factual data reported and analyzed were not in a consistent manner throughout the assignment.

AGREED CONCLUSIONS OF LAW

1. That Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858-726, in that 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; and
- d) Standard 1, Standards Rules 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6; and Standard 2, Standards Rules 2-1, 2-2, and 2-3 of the Uniform Standards of Professional Appraisal Practice. These include the sub-sections of the referenced rules.

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

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

4. That Respondent has violated 59 O.S. § 858-723(C)(9): "Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

5. That Respondent 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.”

6. The OREAB reserves the right to amend or addend these allegations should evidence presented or discovered during the proceeding constitute clear and convincing proof that such amendments or addenda are warranted.

CONSENT AGREEMENT

The Respondent, by affixing her signature hereto, acknowledges:

1. That Respondent has been advised to seek the advice of counsel prior to signing this document.

2. That Respondent possesses the following rights among others:

- a) The right to a formal factfinding hearing before a disciplinary panel of the Board;
- b) The right to a reasonable notice of said hearing;
- c) The right to be represented by counsel;
- d) The right to compel the testimony of witnesses;
- e) The right to cross-examine witnesses against her; and
- f) The right to obtain judicial review of the final decision of the Board.

3. The Respondent stipulates to the facts as set forth above and specifically waives both her right to contest these findings in any subsequent proceedings before the Board and her right to appeal this matter to the District Court.

4. The Respondent consents to the entry of this Order affecting her professional practice of real estate appraising in the State of Oklahoma.

5. The Respondent agrees and consents that this Consent Order shall not be used by her for purposes of defending any other action initiated by the Board, regardless of the date of the appraisal.

6. All other original allegations in this matter are dismissed.

7. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting, after receipt of the executed Order from Respondent, and notice for the Order's placement on that Agenda is accepted.¹

8.

9. This Consent Order may be executed in one or more counterparts, but all of such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other party, facsimile and visual digital reproductions of original signatures shall be as effective as if they were the originals.

10. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

11. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

12. This Consent Order is intended by the Parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understanding, discussions, negotiations, and commitments (written or oral). This Consent Order may not be altered, amended, modified, supplemented, or otherwise changed, except by a writing executed by an authorized representative of each of the Parties.

13. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

14. The Parties represent and warrant to one another that each Party has authority to enter into this binding Consent Order. The OREAB represents and warrants that the undersigned

¹ Currently, the next Board meeting is scheduled for August 4, 2023, at 9:30 a.m.

have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

15. The Parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Consent Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

16. The Parties acknowledge that they understand the provisions of this Consent Order.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent(s). It is hereby agreed between the Parties that this Consent Order shall be presented to the Board, with recommendation for approval of the Board, at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against her at the subsequent disciplinary hearing. Respondent will be free to defend herself and no inferences will be made from her willingness to have entered into this agreement. It is agreed that neither the presentation of the Consent Order nor the Board's consideration of the Consent Order will be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, will not be grounds for precluding the Board or any individual Board member from further participation in proceedings related to the matters set forth in the Consent Order.

ORDER

WHEREFORE, on the basis of the foregoing Agreed Findings of Fact and Agreed Conclusions of Law, it is ordered that:

1. Respondent shall take the following corrective education:
612 Residential Site Valuation & Cost Approach 15 Hours
2. Completion of the four-hour Sales Comparison Approach Reconciliation corrective education class offered by The Appraisal Foundation.
3. Respondent agrees that she will successfully complete, pass the test, and provide proof of completion and passing of the tests to the Board's office for the courses completed, within ninety (90) days from the date the Board approves this Order. Failure to complete and pass the courses in a timely matter will result in suspension until the courses are passed and

completed with proof of completion and passing of the tests to the Board's office. Respondent shall only receive credit for the completed course, as identified in ¶1, hereinabove.

4. Respondent shall pay an administrative fine in the amount of five-hundred dollars (\$500), to be paid within thirty (30) days of notification of Respondent of the Board's Order imposing the administrative fine, pursuant to 59 O.S. §858-723.

5. Failure to comply with the preceding paragraphs in a timely manner will result in an instant suspension of Respondent's license. For good cause, an extension may be granted by the Board. An application for an Extension of Time should be filed at least five business days in advance of the Board meeting to be placed on a Board meeting agenda in advance of the deadline to comply with this Consent Order.

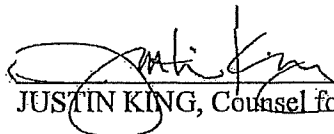
DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §24-A.1 through §24-A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection and copying upon request.

RESPONDENT:


DANIELLE BROWN


July 27, 2023
DATE


JUSTIN KING, Counsel for Respondent

July 27, 2023
DATE

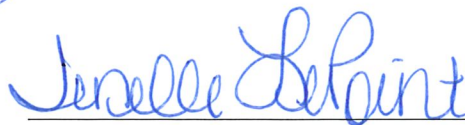
CERTIFICATE OF BOARD'S PROSECUTING ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma Real Estate Appraiser Board, the State of Oklahoma, and the Respondent, with regard to the violations alleged in the formal Complaint.


STEPHEN L. MCCALED, OBA NO. 15649
Board Prosecutor
400 NE 50th St.
Oklahoma City, OK 73105

9 8-1-23
DATE

IT IS SO ORDERED on this 4th day of August, 2023.



JENELLE LEPOINT, Board Secretary
Oklahoma Real Estate Appraiser Board



**OKLAHOMA REAL ESTATE
APPRAISER BOARD:**

By:



BRYAN NEAL, OBA NO. 6590
Assistant Attorney General
Attorney for the Board
313 NE 21st St
Oklahoma City, OK 73105

CERTIFICATE OF MAILING

I, Kelly Ann Reynolds, hereby certify that on the 4th day of August 2023, a true and correct copy of the above and foregoing Consent Order was sent via first-class U.S. Mail, certified and return-receipt requested, with proper postage prepaid thereon, to the following:

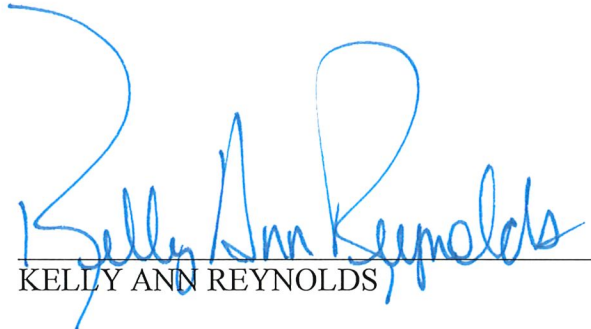
Danielle W. Brown
c/o Justin T. King
KING LAW FIRM
24 NE 53rd Street
Oklahoma City, OK 73015

9214 8902 0982 7500 0563 33

and by first-class U.S. Mail to:

Bryan Neal, Assistant Attorney General
Office of the Attorney General
313 NE 21st St
Oklahoma City, OK 73105

Stephen L. McCaleb, Esq.
Derryberry & Naifeh, LLP
4800 N. Lincoln Blvd
Oklahoma City, OK 73105


KELLY ANN REYNOLDS