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

| | | |
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| In the Matter of BEVERLY BOWEN, | ) | Complaint #19-038 |
| Respondent. | ) | |

## CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board ("OREAB"), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent BEVERLY BOWEN, through her attorneys, Rachel Lawrence Mor and Justin 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 May of 2019, Beverly Bowen ("Respondent") was hired to complete an appraisal (the "appraisal" or "report") for a property located at 219 West Main Street, Meeker, OK 74855 (the "subject"). Respondent completed the appraisal with an effective date of May 26, 2019. The report was signed on May 31, 2019. A second report was issued on the same property by Respondent with an effective date of May 26, 2019. That report was signed on June 7, 2019. The client was listed as Suntrust Bank and the assignment type was for a refinance transaction. Respondent derived a market value of $396,000. The report was performed in

accordance with the requirements of the Uniform Standards of Professional Appraisal Practice ("USPAP").

2. Respondent completed the report on a Fannie Mae 1004 Form which is considered to be one of the most common forms used for single family dwellings and not a commercial property.

4. In Respondent's report, she reported that the present highest and best use of the property as improved (residential) was not the present use. She further described that "[c]ommercial use would be the highest and best use. Subject has been used as a photography studio home." The Respondent said the site is a Legal Non-Conformity; however, she failed to provide further details. There are residential and commercial properties in the immediate vicinity of the subject. The subject is located behind a cluster of trees approximately 100 feet from Main Street.

5. Upon receipt of Respondent's report, the AMC that hired her responded to her with a quality control notice that, among other comments, the "[r]eport indicating HBU is other than improved is not supported. Please review revise and advise as appropriate."

6. Respondent responded that "I do not have to prove that this property is more productive at (sic) commercial. It is zoned commercial and on a commercial street. I will not do anything more than what I have done."

7. The AMC then notified Respondent of USPAP Standard 1-3 which

requires that "an appraiser must develop an opinion of value of the highest and best use of the real estate. COMMENT: An appraiser must analyze the relevant legal, physical, and economic factors to the extent necessary to support the appraiser's highest and best use conclusion(s)."

8. The comparable sales chosen by Respondent were single family residential properties with apparent dissimilar highest and best uses.

9. The letter of engagement between Respondent and the AMC provided that Respondent was to contact the AMC to determine how to proceed if the subject property is not residential. Respondent failed to do so.

10. Although zoned commercial, Respondent failed to develop the income approach or explain its exclusion.

## 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 Competency Rule of the Uniform Standards of Professional Appraisal Practice;

B) Standard 1, Standards Rules 1-3, 1-4, and 1-6; and 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. 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)(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."

## 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 fact-finding 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 him; 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 her right to contest these findings in any subsequent proceedings before the Board and 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. All parties to this Consent Order have been represented by counsel.

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 effective the same 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.

[1] Currently the next Board meeting is scheduled for 9:30 a.m. on October 9, 2020.

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 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, a formal hearing on the complaint may be held. If the Board does not accept the Consent Order, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against him at the subsequent disciplinary hearing. Respondent will be free to defend himself and no inferences will be made from his willingness to have entered 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 and that:

1. Respondent shall take the following corrective education course: 631 – General Appraiser Market Analysis and Highest and Best Use (30 Hours); to be completed within 30 days of the Board's approval of the Consent Order.
2. Respondent agrees that she will successfully complete, pass the test and provide proof of completion and passing of the test to the Board's office for the course completed. Failure to complete and pass the course in a timely manner will result in suspension until the course is passed and completed with proof of completion and passing of the test to the Board's office.
3. Respondent shall pay an administrative fine of $750.00, to be paid within thirty (30) days of notification of the certificate holder by the Board of the order of the Board imposing the administrative fine, pursuant to 59 O.S. §858-723.

## DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. §§24-A.1 – 24A.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:

Beverly Bowen

BEVERLY BOWEN

11-4-2020

DATE

RACHEL LAWRENCE MOR, Counsel for Respondent

DATE

JUSTIN KING, Counsel for Respondent

DATE

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:

_____
BEVERLY BOWEN

_____
DATE

Rachel Lawrence MOR
RACHEL LAWRENCE MOR, Counsel for Respondent

11/04/20
DATE

JUSTIN KING, Counsel for Respondent

11/4/2020
DATE

## CERTIFICATE OF BOARD 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 MCCALEB, OBA #15649
Board Prosecutor
400 NE 50th Street
Oklahoma City, Oklahoma 73105

11-4-20
DATE

IT IS SO ORDERED on this 6th day of November, 2020.

**ERIC SCHOEN**, Board Secretary
Oklahoma Real Estate Appraiser Board

**OKLAHOMA REAL ESTATE APPRAISER BOARD**

By:

**BRYAN NEAL**, OBA #6590
Assistant Attorney General
Attorney for the Board
313 NE 21st Street
Oklahoma City, Oklahoma 73105

## CERTIFICATE OF MAILING

I, Jenelle LePoint, hereby certify that on the 6th day of November 2020 a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

**Rachel Lawrence Mor** — **9214 8902 0982 7500 0319 89**
Landmark Towers West, Suite 1000
3555 N.W. 58th Street
Oklahoma City, OK 73112

**Justin T. King** — **9214 8902 0982 7500 0319 96**
KING LAW FIRM
24 N.E. 53rd Street
Oklahoma City, OK 73105

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

Jenelle LePoint
JENELLE LEPOINT