

date and time in Complaint No. 14-024, pursuant to the requirements of Article II of the APA, 75 O.S. §§ 308a-323, by first class U.S. certified mail to his mailing address at 6250 Central Blvd., Suite No. 114, Whitestown, Indiana 46075, with a return receipt signed on August 6, 2015, and by electronic mail served on and received by the Respondent on August 12, 2015, as verified by the sworn testimony of Christine McEntire, Board Director, that such service was secured.

The Respondent, Richard J. Tibbenham, of Newport Beach, California (the "Respondent Tibbenham"), whose e-mail address is rtibbenham@gmail.com, having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of Hearing Panel (the "Notice") by first class U.S. certified mail with return receipt requested to his last two (2) known addresses, on August 3, 2015, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-724, and the APA, 75 O.S. §§250-323, did not appear in person or through an attorney at the hearing, after such Respondent Tibbenham having been served a copy of the Notice filed by the Board herein on August 3, 2015, setting the September 16, 2015, hearing date and time in Complaint No. 14-024, pursuant to the requirements of Article II of the APA, 75 O.S. §§ 308a-323, by electronic mail served on and received by the Respondent on August 12, 2015, as verified by the sworn testimony of Christine McEntire, Board Director, that such service was secured.

As the Board's Prosecutor, Mr. McCaleb presented his opening statement on behalf of the Board.

PRELIMINARY MATTERS

As a preliminary matter, the Board's Prosecutor called the Board's Director Christine McEntire to testify as to the Board's efforts to provide notice to each of the Respondents at several points in time in the Board's investigation and disciplinary process including the hearing before the

Disciplinary Hearing Panel on September 16, 2015. The Board's Prosecutor initially moved for the admission of two (2) exhibits for the Board (Exhibits 14 and 15, respectively) to address the issue of the receipt of the Notice by each of the Respondents, to which motion in the absence of the two Respondents, there was no objection and both such Board exhibits were admitted into evidence.

Christine McEntire Testimony as to the Notice (Summary)

According to the sworn testimony of the Board's Director, Christine McEntire, Exhibit 15 (initially marked as Exhibit 13 and subsequently changed to Exhibit 15 due to a duplication in numbering) is a print-out of an Excel spreadsheet prepared by Ms. McEntire summarizing the various Board attempts to provide service of notice to Respondent Boothe at the various addresses supplied by Respondent Boothe based on documentation in the Board's files. Ms. McEntire identified Exhibit 15 (renumbered from Exhibit 13) and testified as to Exhibit 15 that Respondent Boothe signed the certified mail return receipt green card for the initial grievance in this matter mailed by U.S. Mail certified mail return receipt requested, to 38 Camino Facil Box 608, Rociada, New Mexico 87742, and that someone in his company's office at 6250 Central Blvd., Suite No. 114, Whitestown, Indiana 46075, signed the certified mail return receipt green card for the Notice issued in this matter setting the hearing on September 16, 2015, at 9:30 a.m. Ms. McEntire further testified that the Notice that was also sent by electronic mail at Benboothe@gmail.com to the Respondent Boothe on August 12, 2015, which was received by the Respondent Boothe that same day.

When questioned about the abbreviations she used in Exhibit 15, Ms. McEntire testified that when reading Exhibit 15 and Exhibit 14, that "UNC" means "unclaimed" and the phrase "green card" means a certified mail return receipt was requested to verify the receipt of the mailed item. In response to another question, Ms. McEntire testified that the Board had valid service of the Notice by certified mail on Respondent Boothe through one of his company's staff members at the

company's Whitestown, Indiana address, and that the Board had provided the Notice by electronic mail as well.

An examination reveals that Exhibit 15 begins with the Notice of Grievance and Request for Response sent on September 4, 2014, that was received on September 9, 2014, as verified by the signed certified mail return receipt bearing that date and signature, through and including the Notice that was sent by electronic mail to the Respondent Boothe on August 12, 2015, that was received by the Respondent Boothe at Benboothe@gmail.com that same day as verified by an e-mail confirmation sent to the Board, the receipt of which confirmation was verified by the sworn testimony of Board Director Christine McEntire. Exhibit 15 is a print-out of an Excel spreadsheet prepared by Ms. McEntire summarizing the various Board attempts to provide notice at several points in time in the Board's investigation and disciplinary process to Respondent Boothe at the various mailing addresses and fax phone numbers used or supplied by Respondent Boothe, which use of numerous different mailing addresses and fax phone numbers by Respondent Boothe to evade service of notice Ms. McEntire described as a "pattern of avoidance".

Also, according to the sworn testimony of the Board's Director, Christine McEntire, Exhibit 14 is a print-out of an Excel spreadsheet prepared by Ms. McEntire summarizing the various Board attempts to provide service of notice at several points in time in the Board's investigation and disciplinary process to Respondent Tibbenham at the various mailing addresses or fax phone numbers used or supplied by Respondent Tibbenham based on documentation in the Board's files, which use of numerous different addresses to evade service of notice Ms. McEntire described as a "pattern of avoidance". Ms. McEntire testified that Respondent Tibbenham signed for the Subpoena Duces Tecum sent by certified U.S. Mail return receipt requested as he later responded by supplying copies of documents pursuant to such subpoena. Ms. McEntire testified that as copies of

the Notice that were mailed by U.S. Mail certified return receipt requested were unclaimed and returned that Notice was sent to Respondent Tibbenham by electronic mail at rtibbenham@gmail.com that was received that same day for which delivery she had an e-mail delivery confirmation.

An examination reveals that Exhibit 14 begins with the Subpoena to Produce Records sent to Respondent Tibbenham on August 19, 2014, that was received on August 27, 2014, as verified by the signed return receipt bearing that date and signature, through and including the Notice sent by electronic mail to the Respondent Tibbenham on August 12, 2015, that was received by the Respondent Tibbenham at rtibbenham@gmail.com that same day as verified by an e-mail confirmation sent to the Board, the receipt of which confirmation was verified by the sworn testimony of Board Director Christine McEntire.

In response to a question, Ms. McEntire testified that she felt that both Respondents had notice of the hearing in this matter set for September 16, 2015, at 9:30 a.m..

The Board's Prosecutor subsequently moved for the admission of thirteen (13) exhibits for the Board contained in a trial notebook (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, respectively), to which motion, the Respondents being absent, there was no objection and all thirteen such Board exhibits were admitted into evidence, which together with the initial two exhibits admitted totals fifteen (15) exhibits.

Exhibit 1 is the Temporary Practice Permit Application of Respondent Boothe at Ben Boothe & Associates, Inc. (B.B.A.R., Inc.) received by the Board on June 26, 2014, to appraise real property listed as Holiday Inn, 6200 N. Robinson Ave., Oklahoma City, Oklahoma;

Exhibit 2 was the E-mail from the Board's Administrative Officer Eric Schoen to Yen Nguyen at B.B.A.R., Inc., dated July 1, 2014;

Exhibit 3 was the E-mail from the Board's Administrative Officer Eric Schoen to Yen Nguyen at B.B.A.R., Inc., dated July 9, 2014;

Exhibit 4 was the Temporary Practice Permit Application of Respondent Boothe at B.B.A.R., Inc., received by the Board on July 17, 2014;

Exhibit 5 was the was the E-mail from the Board's Administrative Officer Eric Schoen to Yen Nguyen at B.B.A.R., Inc., dated July 18, 2014;

Exhibit 6 was the Texas Appraiser Licensing and Certification Board Disciplinary Action Search Results on Ben Boothe;

Exhibit 7 is the ACS Appraisal Subcommittee National Registry Appraiser Report on Ben Boothe;

Exhibit 8 is the Temporary Practice Permit Application of Richard John Tibbenham received by the Board on July 29, 2014;

Exhibit 9 is the ACS Appraisal Subcommittee National Registry Report on Richard John Tibbenham;

Exhibit 10 is the Oklahoma Temporary Practice Permit – Permit No. OK 14-159 issued to Richard J. Tibbenham;

Exhibit 11 is a Memo to File from Eric M. Schoen dated August 19, 2014;

Exhibit 12 is the Subpoena Duces Tecum issued to Richard J. Tibbenham by the Board on August 19, 2014; and,

Exhibit 13 consists of the Responsive Documents from the August 19, 2014, Subpoena Duces Tecum issued to Richard J. Tibbenham by the Board on September 2, 2014.

The Respondents, being absent, did not submit any documents for admission as evidence in this matter. Neither party to these proceedings requested that a court reporter record this

matter and neither party 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

The Board's Prosecutor presented two (2) witnesses in support of the case against the Respondents: Eric M. Schoen, the Board's Administrative Officer; and Christine McEntire, the Board's Director.

Eric M. Schoen Testimony (Summary)

Upon being duly sworn, Mr. Schoen testified that he is the Board's Administrative Officer, that has served in that capacity since November of 2012, and in that capacity he handles issuance of Temporary Practice Permits for the Board. Mr. Schoen explained that the issuance of temporary practice permits allows an out of state appraiser to practice in Oklahoma.

Mr. Schoen identified Exhibit 1 as Respondent Boothe's initial Temporary Practice Permit Application that was received by the Board on June 26, 2014, that stated that Respondent Boothe held a New Mexico appraiser license, and which Application as submitted, was not notarized as required.

Exhibit 2 was identified as an e-mail exchange between Eric Schoen, as the Board's Administrative Officer, and Yen Nguyen of B.B.A.R., Inc., dated July 1, 2014, that the electronic copy of Respondent Boothe's Temporary Practice Permit Application was not sufficient as the Board needs an original.

Exhibit 3 was identified as an e-mail exchange between him, Eric Schoen, as the Board's Administrative Officer, and Yen Nguyen at B.B.A.R., Inc., dated July 9, 2014, that the Board still needed an Application with original signatures.

Exhibit 4 was identified as the revised Temporary Practice Permit Application of

Respondent Boothe at B.B.A.R., Inc., received by the Board on July 17, 2014, which Application was notarized by Afsaneh T. Boothe, the wife of Respondent Boothe.

Exhibit 5 was identified as an e-mail exchange between Eric Schoen, as the Board's Administrative Officer, and Yen Nguyen at B.B.A.R., Inc., dated July 18, 2014.

Exhibit 6 was identified as the Texas Appraiser Licensing and Certification Board Disciplinary Action Search Results on Ben Boothe that disclosed the existence of disciplinary action against Respondent Boothe consisting of four different enforcement actions which occurred while he was licensed in Texas (1997, 2001 and two in 2008).

Mr. Schoen identified Exhibit 7 as the ACS Appraisal Subcommittee National Registry Appraiser Report on Ben Boothe, whose record of prior disciplinary action while he was licensed as an appraiser in Texas, begins on the bottom of page 4 of Exhibit 7 with a monetary fine and continues on page 5 with a voluntary surrender of his Texas appraiser license.

Continuing, Mr. Schoen next testified as to the Board's exhibits related to Respondent Tibbenham.

According to Mr. Schoen, Exhibit 8 is the Temporary Practice Permit Application of Richard John Tibbenham (Respondent Tibbenham) received by the Board on July 29, 2014. At some point in time, Respondent Tibbenham moved from Texas and the Texas address he provided in his Application, to Newport Beach, California, causing an issue with his Notary as the Notary that signed attesting the genuineness of Mr. Tibbenham's signature, was from California.

Exhibit 9 was identified as the ACS Appraisal Subcommittee National Registry Report on Richard John Tibbenham, which discloses on page 2 thereof that Respondent Tibbenham has a New Mexico appraiser license and on page three discloses that Respondent Tibbenham was previously licensed as an appraiser in Oklahoma.

Mr. Schoen identified Exhibit 10 as the Oklahoma Temporary Practice Permit – Permit No. OK 14-159 issued to Richard J. Tibbenham on August 1, 2014, that listed the same real property (Holiday Inn, 6200 N. Robinson Ave., Oklahoma City, Oklahoma) to be appraised as did the Temporary Practice Permit Application of Respondent Boothe, although the duplication in the identity of such parcels of real property was not known by Mr. Schoen at the time Respondent Tibbenham was issued his Oklahoma Temporary Practice Permit – Permit No. OK 14-159.

Mr. Schoen identified Exhibit 11 as a Memo to File from Eric M. Schoen dated August 19, 2014, documenting his phone conversation with Respondent Boothe earlier that day that Respondent Boothe no longer needed an Oklahoma Temporary Practice Permit as we were making it too hard on him in asking for additional information regarding his discipline in Texas and in clarifying the notary on his application (his wife Afsaneh T. Boothe), and that his colleague Richard J. Tibbenham applied for the temporary practice permit and was issued such permit. Mr. Schoen noted that the permit issued to Respondent Tibbenham was for the exact same real property as the application provided by Respondent Boothe.

Exhibit 12 was identified as the Subpoena Duces Tecum issued and mailed to Richard J. Tibbenham by the Board on August 19, 2014.

Exhibit 13 was identified as consisting of the Responsive Documents from the August 19, 2014, Subpoena Duces Tecum issued to Richard J. Tibbenham by the Board on September 2, 2014, and was identified as the written appraisal report in this matter.

Page 1 of Exhibit 13 is the Certification of Records signed by Respondent Tibbenham. Page 2 through and including page 30 thereof is the written appraisal report of Respondent Boothe and Respondent Tibbenham on the subject real property, Holiday Inn, 6200 N. Robinson Ave., Oklahoma City, Oklahoma.

Page 4 of Exhibit 13 (which is also page 3 of Exhibit 1) was identified as the Engagement Letter from the client Adam Durant at Southwest Capital Bank, Albuquerque, New Mexico.

Page 5 was identified as a letter from Respondent Boothe's company B.B.A.R., Inc. addressed to the client Adam Durant at Southwest Capital Bank, Albuquerque, New Mexico, which on page 6 of this written appraisal report purports that this appraisal report complies with the Uniform Standards of Professional Appraisal Practice (USPAP).

Page 7 of Exhibit 13 is the estimate of value of Holiday Inn, 6200 N. Robinson Ave., Oklahoma City, Oklahoma, rounded at \$12,800,000.

Page 8 of Exhibit 13 contains a Summary of Salient Facts, most notably of which is the representation that Respondent Boothe had "applied for" a Temporary Practice Permit.

Page 10 of Exhibit 13 was identified as the Appraiser Certification with the certification that the appraisal report complied with USPAP and that Respondent Boothe had personally inspected the subject real property, Holiday Inn, 6200 N. Robinson Ave., Oklahoma City, Oklahoma.

Page 11 of Exhibit 13 was identified as the appraiser signature page of Respondent Boothe and Respondent Tibbenham (with an MAI designation), that each signed.

Page 12 of Exhibit 13 through page 30 thereof, was identified as information on the professional qualifications of Respondent Boothe, including letters of recommendation and news articles, none of which provide information as to the professional qualifications of Respondent Tibbenham. Page 30 of Exhibit 13 is the invoice for the appraisal report on the letterhead of Respondent Boothe's company B.B.A.R., Inc. with only his name listed on the invoice near the bottom of the page where it states "Thank you. Ben".

Christine McEntire Testimony (Summary)

Upon being reminded by the Board's Hearing Counsel that she was previously duly sworn

and remained under oath, Ms. McEntire testified that she is the Board's Director and that Board staff produces the notice of the disciplinary proceedings for the Board that are sent to respondents. Ms. McEntire testified that she authored the Subpoena Duces Tecum admitted as Exhibit 12 that was issued to Respondent Tibbenham.

In response to a question about the discrepancy in the page numbers in the written appraisal report submitted herein as Exhibit 13, beginning on page 9 of Exhibit 13, that page 9 also bears a different printed number (page 130) as provided by Respondent Tibbenham, Ms. McEntire testified that the written appraisal report submitted herein as Exhibit 13 with its thirty (30) pages of material, is everything that the Board received from Respondent Tibbenham in response to the Subpoena Duces Tecum issued to him. It was noted that there appeared to be pages of the written appraisal report provided by Respondent Tibbenham missing as pages 9 through 30 of Exhibit 13 were also numbered as printed pages 130 through 153.

At the conclusion of Ms. McEntire's testimony, the State rested.

As part of his closing, the Board's Prosecutor, Mr. McCaleb, requested that action of some kind be recommended against the Respondents, that a fine could be levied up to \$2,000.00 each, that the Respondents willfully violated the Oklahoma Certified Real Estate Appraisers Act, and that the Respondents violated the ethics rule in Oklahoma Certified Real Estate Appraisers Act.

The Respondents, being absent and not represented by counsel, presented no witnesses in their defense and at no time introduced any exhibits into evidence on their own behalves.

A Request for Oral Argument was not filed by either Respondent and neither Respondent appeared to address the matter before the Board.

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, BEN B. BOOTHE, was an applicant for a temporary practice permit with the Board and on August 1, 2014, Respondent RICHARD J. TIBBENHAM was issued a Temporary Practice Permit with the State of Oklahoma, holding certificate number OK 14-159.

FINDINGS OF FACT

The Board adopts in full the Findings of the Hearing Panel and that the following Facts were proven by clear and convincing evidence:

1. The Respondent BEN B. BOOTHE, was an applicant for a temporary practice permit with the Board and on August 1, 2014, Respondent RICHARD J. TIBBENHAM was issued a Temporary Practice Permit with the State of Oklahoma, holding certificate number OK 14-159.

2. On July 17, 2014, the Board received a signed and notarized application for a Temporary Practice Permit from the Respondent Boothe utilizing his New Mexico General Appraiser credential, #02129-G.

3. As Respondent Boothe utilized his New Mexico credential and provided a New

Mexico address, on July 18, 2014, Board Staff requested clarification from Respondent Boothe as to why his application was signed in front of a Texas Notary. Further, upon running a National Registry report on Respondent Boothe, which is standard practice on any application, Board Staff advised Respondent Boothe that the Board would require a written explanation as to the four different enforcement actions which occurred while he was licensed in Texas (1997, 2001 and two in 2008), the last of which resulted in a surrender of his Texas credential, as well as copies of the final orders in these actions.

4. Having not received an a response from Respondent Boothe, on August 19, 2014, Board Staff telephoned Respondent Boothe regarding his pending application for a Temporary Practice Permit. Respondent Boothe advised that “we were making it too hard for him” by asking for information on his Texas discipline and clarification as to “his wife” notarizing the application for him out of state. Respondent Boothe then advised that “his colleague [Respondent] Tibbenham applied for the permit instead and it has already been issued.”

5. Following the August 19, 2014, telephone conversation with Respondent Boothe, Board Staff reviewed the records of the Board with respect to Temporary Practice Permits and located a July 29, 2014, application for a Temporary Practice Permit for the property located at 6200 N. Robinson Avenue, a Holiday Inn, in Oklahoma City, Oklahoma (the “subject property”). The applicant was Respondent Richard J. Tibbenham. The Respondent Tibbenham’s Temporary Practice Permit was issued on August 1, 2014, and he was issued Permit No. OK 14-159.

6. Based on Respondent Boothe’s statements and documentary evidence that a Temporary Practice Permit was issued to Respondent Boothe’s colleague for the same property, a Subpoena Duces Tecum was issued to Respondent Tibbenham on August 19, 2014, requesting a complete copy of the appraisal report for the subject property.

7. On September 2, 2014, Board Staff received a copy of the requested appraisal report for the subject property from Respondent Tibbenham consisting of thirty pages. The Certification of Records was dated August 28, 2014, and signed by Respondent Tibbenham. A review of the copy of the appraisal report confirms that the appraisal report purported that it was prepared in conformance with USPAP; that Respondent Boothe and Respondent Tibbenham prepared the subject appraisal report and that Respondent Boothe completed the site inspection. Respondent Boothe and Respondent Tibbenham each signed the appraisal report and transmittal letter and the invoice was on the letterhead of the Respondent Boothe's company B.B.A.R., Inc. The appraisal report contains 19 pages of information regarding the professional qualifications of Respondent Boothe, including letters of recommendation and news articles. At the time Respondent Boothe signed the appraisal report, he was not licensed as an Oklahoma appraiser and he had not secured a temporary practice permit from the State of Oklahoma.

8. The Subpoena Duces Tecum issued to Respondent Tibbenham was issued for "a complete color copy of the appraisal, including the letter of engagement, invoice for payment and proof of payment". The thirty page copy of the appraisal report provided by Respondent Tibbenham was not a complete copy of the appraisal report on the subject property as evidenced by the discrepancies in the page numbers on the appraisal report as provided by the Respondent Tibbenham, the last page of which is numbered as page 153, while the last page of the thirty page appraisal report admitted as Board's Exhibit 13 is numbered as page 30.

9. Respondent Boothe and the Respondent Tibbenham have each engaged in a pattern of avoidance of accepting service of notice from the Board during the Board's investigation and disciplinary process in this matter.

While Respondent Boothe signed the green card certified mail return receipt for the initial Notice of Grievance and Request for Response at the street address of 38 Camino Facil Box 608, Rociada, New Mexico 87742 on September 9, 2014, others at different addresses signed for the green card return receipt for the Grievance Adopted Letter on February 19, 2015, at 6250 Central Blvd., Whitestown, Indiana 46075 and for the green card certified mail return receipt for the Notice on August 6, 2015, at 6250 Central Blvd., Suite No. 114, Whitestown, Indiana 46075.

When the Board Staff attempted to send a copy of the Notice by facsimile to the fax number of Respondent Boothe at (888) 628-1561 on August 12, 2015, the listed phone fax number would not accept the Board's fax. The Notice mailed on August 3, 2015, by certified U.S. Mail return receipt requested to the street address of 38 Camino Facil Box 608, Rociada, New Mexico 87742, at which address Respondent Boothe had previously signed a green card return receipt, was unclaimed and was unable to be forwarded on to another address.

Respondent Tibbenham signed the green card certified mail return receipt for the Subpoena Duces Tecum at the street address of 1124 Colony Place, Newport Beach, California 92660 on August 27, 2014, and did not sign for any further certified mail from the Board, despite numerous documented attempts by the Board to serve notice on Respondent Tibbenham. The Board Staff used electronic mail to provide the Notice to Respondent Tibbenham on August 12, 2015, by e-mailing a copy of the Notice to the Respondent Tibbenham at his e-mail address of rtibbenham@gmail.com.

10. Based on the foregoing, the Respondents have attempted to circumvent the

regulatory system by having Respondent Tibbenham obtain a Temporary Practice Permit once Respondent Boothe was requested to provide additional information concerning his prior discipline in Texas.

FINAL ORDER

WHEREFORE, having adopted in full the Findings of Fact entered by the Disciplinary Hearing Panel, the Board makes its Final Order as follows:

1. Respondent Ben B. Boothe shall pay an administrative fine in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)** 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).

2. Respondent Richard J. Tibbenham shall pay an administrative fine in the amount of **TWO THOUSAND DOLLARS (\$2,000.00)** 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).

3. Respondents Ben B. Boothe and Richard J. Tibbenham shall each be publicly reprimanded for their respective misconduct in this matter through a written letter of reprimand from the Board addressed to each of the Respondents.

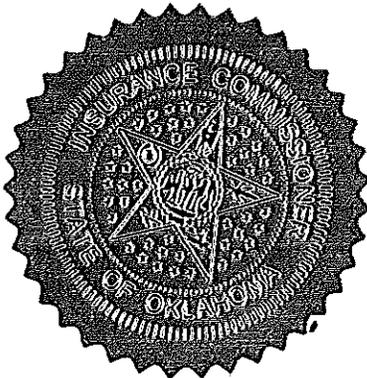
4. Respondent Ben B. Boothe and Respondent Richard J. Tibbenham, being jointly and severally liable for the total costs expended by the Board for legal fees and travel costs incurred in this matter, shall collectively pay the aggregate costs expended by the Board for legal fees and travel costs incurred in this matter. The Board staff will provide a statement of the costs incurred to each of the Respondents with the final order. Costs shall be fully paid within thirty (30) days from the date of any final order of the Board in accordance with the manner contemplated by 59 O.S. § 858-723(B).

5. Neither Respondent Ben B. Boothe nor Respondent Richard J. Tibbenham shall be permitted to apply for a Temporary Practice Permit for a period of Two (2) years from the date of any final order of the Board.

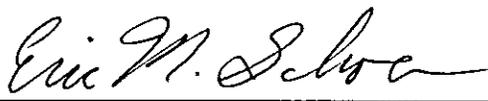
6. Recommend that copies of these proceedings and the final order in this matter be forwarded to the Appraisal Institute for their possible investigation of Respondent Richard J. Tibbenham as a MAI member.

THE BOARD WISHES TO ADVISE THE RESPONDENTS THAT EACH RESPONDENT HAS THIRTY (30) DAYS FROM THE DATE EACH RESPECTIVE RESPONDENT IS 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 this 4th day of November, 2015.



By: 
BRYAN NEAL, Assistant Attorney General,
Counsel to the Board

By: 
ERIC SCHOEN, Board Secretary

CERTIFICATE OF MAILING

I, Christine McEntire, hereby certify that on the 10th day of November, 2015 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:

Ben B. Boothe 7015 1520 0003 4174 1270
38 Camino Facil, P.O. Box 608
Rociada, New Mexico 87742

Ben B. Boothe 7015 1520 0003 4174 1287
6290 Central Blvd, Suite #114
Whitestown, Indiana 46075

Ben B. Boothe 7015 1520 0003 4174 1294
9800 Verna Trail North
Fort Worth, TX 76108

Ben B. Boothe 7015 1520 0003 4174 1300
1112 Montana Avenue
Suite 170
Santa Monica, CA 90403

Richard J. Tibbenham 7015 1520 0003 4174 1317
6 Venture, Suite 275
Irvine, CA 92618

Richard J. Tibbenham 7015 1520 0003 4174 1348
2808 Zell Drive
Laguna Beach, CA 92651

Richard J. Tibbenham 7015 1520 0003 4174 1324
4901 Cole Avenue
Dallas, TX 75205

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

Mark A. Franklin, Hearing Panel Member
3839 South Boulevard, Suite 200
Edmond, Oklahoma 73013

Jerry R. Juhnke, Hearing Panel Member
3330 Bobolink Lane
Enid, Oklahoma 73703

Scott C. Goforth, Hearing Panel Member
3705 West Memorial Road, Suite 306
Oklahoma City, Oklahoma 73134

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.
NOV 09 2015
Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2015-132A

Christine McEntire, Director
Oklahoma Real Estate Appraiser Board
3625 NW 56th Street, Ste. 100
Oklahoma City, Oklahoma 73112

November 9, 2015

Dear Director McEntire:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Real Estate Appraiser Board intends to take. The proposed action is to discipline two out-of-state appraisers—Ben B. Boothe and Richard J Tibbenham—for attempting to end-run the temporary permit process for out-of-state appraisers. Mr. Boothe, who apparently surrendered a license in Texas in lieu of disciplinary proceedings, applied for a temporary permit in Oklahoma and, upon questioning about discipline in Texas, abandoned that temporary permit application, pursued a temporary permit under the other appraiser's name, and then performed substantially all of the appraisal in Oklahoma. The proposed discipline is to impose on each appraiser a public reprimand, a fine of \$2,000, and a bar on temporary practice permits in Oklahoma for two years. The action also imposes joint liability up to around \$5,500 in costs on the appraisers and refers the second appraiser, Mr. Tibbenham, to the Appraisal Institute, a professional organization.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2015, §§ 858-700–858-732, authorizes the issuance of temporary permits for out-of-state appraisers in standards-compliant jurisdictions that recognize Oklahoma-issued certificates, 59 O.S.Supp.2015, § 858-709(D). These permits attach to *appraisers*, not associations or firms, which are forbidden from receiving licensure under the Act. *See id.* § 858-709(D); 59 O.S.2011, 858-720. The conduct of the respondent appraisers here were a clear attempt to bypass the permit application process. The action imposes fine and requirements that the Board may reasonably believe are necessary to deter 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 of Oklahoma's policy to require registration of appraisers temporarily practicing in Oklahoma.

Handwritten signature of E. Scott Pruitt in cursive.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA