

AGREED FINDINGS OF FACT FOR COMPLAINT 15-002

1. Upon information and belief, in October of 2014, Respondent was hired by Wells Fargo Bank (the “client”), to complete an appraisal (the “appraisal”) for a property located at 3133 York Drive, Edmond, Oklahoma (the “subject property”).

2. Respondent completed the appraisal and transmitted the appraisal to the client with an effective date of October 29, 2014, and a final estimate of market value of \$540,000.00. The appraisal was for a refinance transaction.

3. Respondent committed a series of errors in the report which led to a misleading report. These errors include but are not limited to the following in paragraphs 11-20.

SITE SECTION

4. The report’s site section is not adequately developed.

5. The report identifies that the highest and best use is the present use. However, it current should identify the analysis performed to come to that conclusion. Simply checking the box “yes” does not provide sufficient analysis of Highest and Best Use. When the highest and best use box is checked on the form as in the case here, the appraiser has effectively rendered an opinion of highest and best use and is thereby bound to USPAP Standards Rule 2-2(a)(x) and must summarize the support and rational for that opinion.

6. The site dimensions and site size reported are not accurate. The size and dimensions, reported as “93x135”, came from the Oklahoma County Assessor. The accurate site dimensions are 92.50 x 129.28 x 92.72 x 140, equivalent to approximately a 12,469 square foot site (as opposed to the 12,555 square foot site on the report).

7. The report made no mention of a front or rear utility easement or front building line easement was provided. USPAP Standards Rule 1-3(b) comment says "appraiser must analyze the relevant legal, physical and economic factors to the extent necessary to support appraisers highest and best use conclusion".

8. The subject neighborhood is a "gated" community. Roads are "private" not "public" as reported in the Appraisal.

SALES COMPARSION APPROACH SECTION

9. Comparables 4 & 5 on the report were active listings at the time of the report and have since expired. They should not be referred to as "sales" anywhere in the report.

10. Other than some minimal explanation regarding the age and condition adjustments, comparables 4 & 5 were not adequately analyzed.

11. The Market Condition Addendum to the Appraisal Report form provided in the report indicates a 98.73% sales price ("SP") as percentage of list price ("LP") ratio. As of the review date that predicated this complaint, Multi List Services indicates a 98% LP/SP ratio. Adjustments made for these two listing comparables were based upon a list price and not an actual sale price. Sufficient data existed to at least adjust for the list to sale price ratio and provide some explanatory comment. Absent any comments regarding those listings and referring to them as "sales 4 & 5" in the report is misleading and gives the impression that the adjusted price of comparable 5 at \$540,000.00 supports the final value estimate when in fact it never closed.

12. The report does identify comparables 4 & 5 as listings at the top of the grid in the sales of financing fields. However, comparables 4 & 5 are identified multiple times as "sales" on

the Supplemental Addendum page. The report provides no explanation or comment about using listings as sales and then not adjusting for the list price to sales price ration.

13. Appraiser missed sale at 2816 Cumberland that closed on 3/11/2014 for \$525,000.00 with 3935 square feet on the golf course and has storm shelter like the subject. Had Appraiser performed a more thorough search of the market he should have discovered another sale at 2900 Cumberland Drive that sold 6/30/2014 for \$552,500.00 as reported in the assessor records. (See also expired MLS listing 549113). This sale is also on the golf course, has 4284 square feet and a storm shelter like the subject. Both of these sales are more recent than sales 1 & 2 in the Report and are also better alternatives to the comparable listings 4 & 5. Appraiser has not adequately collected, verified and reported comparable sales.

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

AGREED FINDINGS OF FACT FOR COMPLAINT 15-003

15. Upon information and belief, in October of 2014, Respondent was hired by Prime Bank (the "client"), to complete an appraisal (the "appraisal") for a property located at 613 Doe Trail, Edmond, Oklahoma (the "subject property").

16. Respondent completed the appraisal and transmitted the appraisal to the client with an effective date of October 21, 2014, and a final estimate of market value of \$160,000.00. The appraisal was for a purchase transaction.

17. Respondent committed a series of errors in the report which led to a misleading report. These errors include but are not limited to the following in paragraphs 25-32.

SITE SECTION

18. The report's site section is not adequately developed. Additional site comments are non-existent on the Appraisal.

19. The report's site dimensions and site size are not accurate. The report relies on the inaccurate 36x88 dimension from the Oklahoma County Assessor's office. Actual site dimensions are 36.33x88, equivalent to an approximate 3,197 SF site, not 3,168 as reported. Yes, this is close but the fact remains, due diligence and accuracy was abandoned in favor of speed. Plat maps are free on-line.

20. The report did not mention the greenbelt, drainage and utility easement that the subject backs up to. Likewise, the report did not mention that the subject site sides to a neighborhood common area.

21. The report identifies that the highest and best use is the present use. However, it current should identify the analysis performed to come to that conclusion. Simply checking the box "yes" does not provide sufficient analysis of Highest and Best Use. When the highest and best use box is checked on the form as in the case here, the appraiser has effectively rendered an opinion of highest and best use and is thereby bound to USPAP Standards Rule 2-2(a)(x) and must summarize the support and rational for that opinion.

22. The report accurately reflects the C1 zoning, but fails to take similar action to look up the subject's plat map. In many cases, "greenbelt" lots are more desirable in the market. Whether or not this is the case here remains unknown because the appraisal is void of any comments regarding the subject site.

IMPROVEMENTS SECTION

23. Respondent reports that the subject property is in C3 condition, which generally implies "good" overall condition. The house was 29 years old at the time of the report. The reports states that the kitchen is updated yet baths are reported as not updated. Condition of materials in grid, (windows, roof, walls, floors, etc.) are all rated as average. This appears to create some inconsistency because the only apparent updating was the kitchen with the remainder of the improvements described as average. The C3 overall rating does not appear to be accurately reported and not supported.

SALES COMPARSION APPROACH SECTION

24. The report mixes up comparable Sales 3 & 4 in the grid. The report shows Comparable Sale number 3 to be 621 Doe Trail with a \$145,000.00 sale price and 1907 square feet. 6221 Doe Trail actually sold for \$142,500.00 and has 1907 square feet. Report shows Sale 4 as 537 Doe Trail with a sale price of \$142,000.00 and size of 1907 square feet. 537 Doe Trail should actually be \$145,000.00 sale price with 1867 square feet. Addresses were mixed-up on these two sales.

COST APPROACH

25. The Opinion of Site Value in the cost approach is not appropriately supported nor explained on the report. The report states "lot sales are based upon vacant land sales in the neighborhood. When none are present, county records are consulted". There were approximately 80 site sales available in the general market area over the previous 18 months from the effective date of the report that could have been utilized as support for a site value opinion. Although the overall cost figures are reasonable, this section of the report fails because of the clear lack of support for the site value. As a side note, using the site value of \$18,000.00

provided on the Appraisal produces about an 11% land to building ratio. The report's cost approach is not credible as the site value not supported.

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

AGREED FINDINGS OF FACT FOR COMPLAINT 15-005

27. Upon information and belief, in October of 2014, Respondent was hired by Bay Equity (the "client"), to complete an appraisal (the "appraisal") for a property located at 14513 Hogback Road, Luther, OK (the "subject property").

28. Respondent completed the appraisal and transmitted the appraisal to the client with an effective date of October 29, 2014, and a final estimate of market value of \$155000.00. The appraisal was for a refinance transaction.

29. Respondent committed a series of errors in the report which led to a misleading report. These errors include but are not limited to the following in paragraphs 37-41.

IMPROVEMENTS SECTION

30. The subject property has a 400 square foot basement. The report provides no comments as to its condition, access, location or value in use. The adjustments to it on the grid does not appear to be market derived, but based on the report's cost approach, before depreciation.

SALES COMPARSION APPROACH SECTION

31. The sales price for comparable 4 is \$243,500.00, not the \$243,000 shown on the report.

32. The report's adjustments for condition are based on a method which adjusts each sale for estimated land value, then applying the amount per year of depreciation from the Cost Approach. This method is not one that is generally recognized for age and or condition adjustments.

33. No comments regarding the condition or updating of the sales were found. Sales #2 and the listing with 10 acres have the same value per acre applied as the smaller 5 acre tracts of land that were utilized in the report as comparable sales. Sales #1 & 3 have irregular shaped tracts which may not support the indicated values. Sales #2 has a triangular shaped tract with a good amount of road frontage. No. 1 and 3 sit back off the road and cannot be seen from the road.

RECONCILIATION

34. The value reported is supported by two of the sales. Sales 1 & 4 are the only sales which are similar in gross living area. They, however, do not bracket¹ well when looking at sale price and extra amenities. Sale #1 appears to be similar to the subject when looking at updating the condition (MLS photos). The large condition adjustment on sale 1 is not supported. Sale 3 has a 14 stall horse barn (2,400 square feet) and two additional outbuildings. There appears to be a need for a condition adjustment when looking at the MLS photos as the comparable does not appear have been updated.

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

¹ Bracketing is a process in which an appraiser determines a probable range of values for a property by applying qualitative techniques of comparative analysis to a group of comparable sales. *The Appraisal of Real Estate*, Thirteenth Addition.

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;
- 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. 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."

3. 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."

4. 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."

CONSENT AGREEMENT

The Respondent, by affixing his signature hereto, acknowledges:

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

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 his 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 his 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 him for purposes of defending any other action initiated by the Board regardless of the date of the appraisal.

6. Respondent acknowledges that this Order must be approved by the OREAB. If it is not, Respondent understands that the matter will be reset for further hearing and that the OREAB will vote on any further recommendations or other proposals.

7. Respondent acknowledges that, pursuant to Executive Order 2015-33, this order shall not become effective until the Oklahoma Attorney General reviews and approves this order.

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

ORDER

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

1. Respondent is placed on probation for a period of three (3) months from the date Respondent completes the courses outlined in the next paragraph. During the period of probation, Respondent 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 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.

2. Respondent agrees to complete the following courses:
- a) 612 Residential Site Valuation and Cost Approach – 15 hours;
 - b) 613 Residential Sales Comparison and Income Approach - 30 hours; and
 - c) 614 Residential Report Writing and Case Studies – 15 hours

Respondent shall complete the courses by June 2, 2016.

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.

FUTURE VIOLATIONS

In the event the Respondent fails to comply with any of the terms and conditions of this Consent Order, Respondent will be ordered to show cause for him failure to comply which could result in additional penalties.

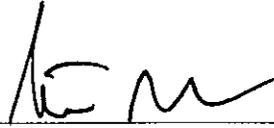
RESPONDENT:


STEFAN M. BARNHOUSE


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.

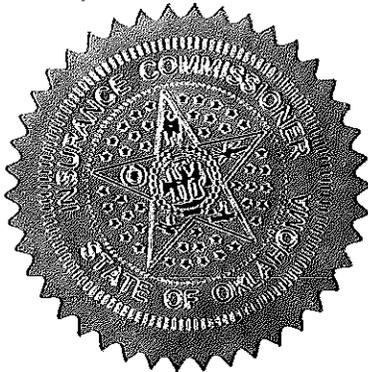


STEPHEN MCCALED, OBA #15649
Board Prosectuor
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

12-1-15

DATE

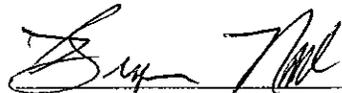
IT IS SO ORDERED on this 2nd day of December, 2015.



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, Sherry Ainsworth, hereby certify that on the 11th day of December, 2015 a true and correct copy of the above and foregoing Consent Order for Respondent Stefan M. Barnhouse was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Stefan M. Barnhouse
P.O. Box 5272
Edmond, Oklahoma 73013

7015 1520 0003 4174 1416

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

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

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


SHERRY AINSWORTH



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

RECEIVED
OKLAHOMA INSURANCE DEPT.

DEC 10 2015

Real Estate Appraiser Board

ATTORNEY GENERAL OPINION
2015-201A

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

December 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, pursuant to a consent order, require that licensee 11411CRA complete three courses in residential appraisal report preparation by June 2, 2016. The action would then impose probation terms including reports on appraisal activities for three months after completion of those courses. The action is a response to three complaints filed after the Board reviewed reports on appraisal activities generated during a prior probationary period.

The first complaint involved an appraisal report with numerical errors and a lack of adequate analysis in several places, particularly in adjustment of values from comparable properties. The second complaint involved an appraisal report with numerical errors, a lack of analysis on the best use of the property, and a confusion of two comparable properties. The third complaint involved almost no analysis of a 400 square foot basement, numerical errors, and inadequate analysis of comparable properties.

The Oklahoma Certified Real Estate Appraisers Act, 59 O.S.2011 & Supp.2015, §§ 858-700–858-732, authorizes the Oklahoma Real Estate Appraiser Board to discipline licensees who violate “any of the standards for the development . . . of real estate appraisals as provided” in the Act, those who “[f]ail[] or refus[] without good cause to exercise reasonable diligence in developing an appraisal,” and those who display “[n]egligence or incompetence in developing an appraisal,” 59 O.S.Supp.2015, § 858-723(C)(6), (7), (8).

The action seeks to ensure that real estate appraisers maintain standards of diligence and professionalism, which is particularly important when appraisals will be relied upon by financial institutions extending credit. The Board may reasonably believe that, by offering licensee the opportunity to obtain additional education and then filing reports on appraisals after that education, the weaknesses in licensee’s appraisals may be corrected.

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 uphold standards of professionalism among real estate appraisers.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a large, stylized flourish above the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA