

the Respondent's Brief on Oral Argument in support of the Respondent's position prior to the hearing on February 3, 2012.

JURISDICTION

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. § 858-700 *et seq.*

2. That the proceedings were conducted in accordance with the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S., § 301-323.

3. That Respondent, WILLIAM S. MCGARRY, is a certified residential appraiser in the State of Oklahoma, holding credential number 10364CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 6, 1992.

FINDINGS OF FACT

The Board adopts in full the findings of the Hearing Panel that the following facts were proved by clear and convincing evidence.

1. That Respondent, WILLIAM S. MCGARRY, is a certified residential appraiser in the State of Oklahoma, holding credential number 10364CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on January 6, 1992.

2. This matter was originally heard by a duly appointed hearing panel on December 1, 2010. On April 1, 2011, the OREAB issued its Board's Decision on Disciplinary Hearing Panel Recommendation.

3. By motion of the Prosecutor and by order of the OREAB, this matter was reopened and "is hereby remanded back to the original hearing panel in order to conduct an evidentiary hearing limited to the alleged fictitious testimony of Respondent, William S. McGarry, and the issue of whether or not First Mortgage required specific time parameters from which appraisers must

select their comparable sales.”

4. During the December 1, 2010, hearing in front of the hearing panel, the Respondent submitted testimony for purposes of explaining his justification for choosing his comparable sales. Respondent submitted false testimony to the OREAB regarding: (1) what First Mortgage requires of him, (2) his use of comparables older than six months in appraisals for First Mortgage, and (3) whether he includes explanations in his reports when he uses comparable sales that are older than six months. Based on the testimony of Rob Northwood, First Mortgage representative, it was established that First Mortgage does not have a policy that, while preferred, requires all comparables to be within six (6) months. The Summary of Appraisals completed by William McGarry for First Mortgage Company where comparables used were older than six (6) months for March 1, 2009 thru December 6, 2010 shows that Respondent did use comparables older than six (6) months in his appraisals for First Mortgage, despite his testimony from December 1, 2010 that he could not use comparables older than six (6) months for First Mortgage.

CONCLUSIONS OF LAW

The Board adopts in full the conclusions of law entered by the Hearing Panel:

1. That Respondent has violated 59 O.S. § 858-723(C)(6) through 59 O.S. §858-726, in that Respondent violated the Uniform Standards of Professional Appraisal Practice Ethics Rule.

2. That Respondent has violated 59 O.S. § 858-723(C)(5): "An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person."

3. That Respondent has violated 59 O.S. § 858-723(C)(13), in that Respondent violated 59 O.S. § 858-732(A)(1): "An appraiser must perform ethically and competently and not engage in conduct that is unlawful, unethical or improper. An appraiser who could reasonably be perceived to act as a disinterested third party in rendering an unbiased real property valuation

must perform assignments with impartiality, objectivity and independence and without accommodation of personal interests."

FINAL ORDER

WHEREFORE, the Board having adopted in full the Findings of Fact and Conclusions of Law as set forth above, sets forth the following Final Order modifying the recommendation of the Hearing Panel as follows:

1. Respondent shall undergo a period of probation for a period of **TWELVE (12) MONTHS**. During the period of probation, Respondent shall prepare and forward a log of all appraisal assignments on Board form REA-3. Log forms shall be transmitted to arrive in the administrative office of the Board not later than the 5th day of each month and shall contain all assignments during the previous month. The Board's staff may select work product from said logs and request Respondent to forward the appraisal report or the work file for review for USPAP compliance.

2. The Respondent is required to pay a fine in the sum of \$2,000.00 payable within six (6) months from the date of the effective date of the Order.

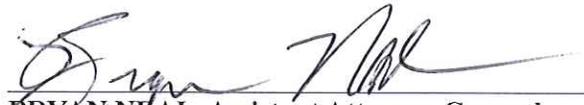
3. Failure by Respondent to comply with any requirement of this order shall result in his appraisal credential being suspended instanter, with notification forwarded immediately to Respondent by Certified Mail, return receipt requested.

THE BOARD WISHES TO ADVISE THE RESPONDENT THAT HE HAS THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED THIS 3rd day of February, 2012.




SHANNON N. GABBERT, Board Secretary


BRYAN NEAL, Assistant Attorney General
Counsel to the Board

CERTIFICATE OF MAILING

I, Christen Watson, hereby certify that a true and correct copy of the above and foregoing Board's Decision as to Disciplinary Hearing Panel Recommendation was mailed on this 16th day of February, 2012 by certified mail, return receipt requested as follows:

Rachel Lawrence Mor
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7010 3090 0000 3334 9336

and by First Class Mail to:

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