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

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| In the Matter of WALTER M. KING, | ) | |
| | ) | Complaint #12-055 |
| Respondent. | ) | |

## BOARD'S DECISION AS TO DISCIPLINARY HEARING PANEL RECOMMENDATION

**ON THE** 9th day of October, 2013, the above numbered and entitled cause came on before the Oklahoma Real Estate Appraiser Board (the "Board") following a disciplinary hearing held on the 22nd day of August, 2013. The Board was represented by a Disciplinary Hearing Panel composed of three (3) members, David W. Atkinson, of Midwest City, Oklahoma, Donna L. Pollock of Edmond, Oklahoma, and Patrick O. Glenn of Oklahoma City, Oklahoma. Patrick O. Glenn was elected and served as Hearing Panel Chairman at the hearing. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. On behalf of the Board, Mr. McCaleb elected to have this matter recorded by electronic device and to rely on the electronic recording.

The Respondent, Walter M. King, of Chickasha, Oklahoma (the "Respondent"), 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 known address, on July 19, 2013, pursuant to the Oklahoma Certified Real Estate Appraisers Act, 59 O.S. §858-724, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323, appeared in person pro se and was not represented by an attorney at the hearing. The Respondent elected to have this matter recorded by electronic device and to rely on the electronic recording.

As the Board's prosecutor, Mr. McCaleb presented his opening statement on behalf of the Board and the Respondent reserved the right to present his opening statement in his defense

immediately after Mr. McCaleb makes his case presentation and the Board rests. Mr. McCaleb presented one witness to testify in the presentation of the Board's case.

## PRELIMINARY MATTERS

From the outset, the Board's prosecutor stated that he had two (2) preliminary matters to present.

The first item dealt with certain exhibits that the Board's prosecutor produced for the hearing, copies of which were in three-ring binders. The Board's prosecutor initially moved for the admission of four (4) exhibits for the Board (Exhibits 1, 2, 3 and 4, respectively) to which there was no objection and all four such Board exhibits were admitted into evidence. Exhibit 1 was Board Order No. 12-020 entitled "Board's Decision as to Disciplinary Hearing Panel Recommendation" in the case styled as "In the Matter of DONALD W. RILEY" Complaint No. 11-078. Exhibit 2 was a Certified Shorthand Reporter's Transcription of the CD Audio Testimony of Brandon King [Mr. King's son] and Walter M. King transcribed from the electronic recording of the Disciplinary Hearing held on September 24, 2012, in the case styled as "In the Matter of Donald W. Riley" Complaint No. 11-078. Exhibit 3 was an Appraisal of Real Estate for a parcel of real property located at 11713 Mackel Drive, Oklahoma City, Oklahoma 73170, as of November 3, 2011, signed only by Donald W. Riley 10156CRA of Chickasha, Oklahoma. Exhibit 4 was a duplicate (*See* Exhibit 3) of an Appraisal of Real Estate (Fannie Mae Form 1004) for a parcel of real property located at 11713 Mackel Drive, Oklahoma City, Oklahoma 73170, as of November 3, 2011, signed, this time, by both Walter M. King 12517SLA of Chickasha, Oklahoma, as the Appraiser and also signed by Donald W. Riley 10156CRA of Chickasha, Oklahoma, as the Supervisory Appraiser.

The second preliminary matter presented by the Board's prosecutor was an announcement that the Respondent Walter M. King was going to stipulate to all of the allegations of fact listed in the Notice of Disciplinary Proceedings and Appointment of Hearing Panel dated July 18, 2013 (the

"Notice"), under the section of the Notice on page 2 entitled "Allegations of Fact" numbered as Sections 8, 9, 10, 11(A), (B) and 12. The Respondent stated that he wanted to clarify what he would agree to under Sections 11 (C) and (D) of the "Allegations of Fact" listed in the Notice, which he proceeded to do.

Through the course of presenting his case, the Board's prosecutor subsequently moved for the admission of two (2) more exhibits (Exhibits 5 and 6) to which there was no objection. Exhibit 5, consisting of five (5) pages, was the regulations of the Federal Housing Administration (FHA) applicable to the FHA requirements for reporting complete and accurate appraisal information to the U.S. Department of Housing and Urban Development (HUD). Exhibit 6 was an Appraisal Order from Validata Lender Services, LLC dated October 31, 2011, for 11713 Mackel Drive, Oklahoma City, Oklahoma 73170, that did not list the name of an appraiser to whom it was addressed or communicated. The Respondent 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. No proposed findings of fact were submitted to the Board by either party to these proceedings.

## WITNESSES AND EVIDENCE PRESENTED

The Board's prosecutor presented one (1) witness in the case against the Respondent: the Respondent himself, Walter M. King, a non AQB compliant state licensed appraiser, licensed as 12517SLA, of Chickasha, Oklahoma.

Upon being duly sworn, Mr. King testified that he is a state licensed appraiser, that he has been appraising real property for twelve (12) years, that he is trying to upgrade his level of licensure and that toward that end, he has completed six (6) of the seven (7) courses required of those who do not have a college degree, the only remaining course to be taken being finance.

The Respondent testified that he received work assignments from Validata Lender Services, LLC, a Maryland appraisal management company (an "AMC"), for FHA appraisals for American Equity Mortgage (AEM) until the rules changed as to FHA. Continuing, the Respondent testified that he received a letter from someone (unknown or no longer known by him that he thinks was from the Board or from FHA but not from Validata Lender Services, LLC), which letter he no longer has a copy, that after a certain date, appraisals for FHA had to be performed by a "certified appraiser", which as a state licensed appraiser, he was not.

Accordingly, the Respondent testified that he approached his old friend of forty (40) years, Donald W. Riley, a then-state certified residential appraiser (now suspended and formerly licensed as 10156CRA), as he was "certified", to sign his appraisals for submission to FHA for AEM and that he, Mr. King, would pay Donald W. Riley, a fee for his services. The Respondent testified that for several months (two or three according to him), that he, Mr. King, performed all of the appraisal assignment himself and signed his own appraisals as the Appraiser on the left side of the form on page six (6) of the Uniform Residential Appraisal Report (UAR) and that the "certified" Donald W. Riley signed the right side of the form on page six (6) of the UAR as the "Supervisory Appraiser" on each one of some 15 to 20 FHA appraisals he performed each month in cooperation with Donald W. Riley for the several months (two or three according to him) for a total of from 45 to 60 total appraisals depending upon the length of time this part of their arrangement continued, a period of time which Mr. King could not quite recall.

Later, according to the Respondent, Validata Lender Services, LLC, said that as he was not a "certified appraiser", that he, Mr. King, could no longer sign his appraisals as FHA wanted the signature of a "certified appraiser" only, upon which happening, Mr. King stated that he called the Board. At the request of the Board's prosecutor, the Respondent read from Exhibit 2, the Transcript of his previous sworn testimony from September 24, 2012, page 31, lines 8 through 20, as follows:

"A Whenever I was notified that we had to take my name off as the appraiser and that he had to – just the certified appraiser could be on there, I asked them, I said, well, would it be all right if I put a sentence in there stating that I collected and compiled the information for that appraisal, and they said no, at no place in that appraisal did they want any appraiser's name other than the certified appraiser.

Q Who is they?

A Validata was telling me this and they had been talking to FHA."

Upon the Respondent having finished reading a portion of his previous sworn testimony into the record above, the Board's prosecutor noted that no letter was ever mentioned in such testimony, to which the Respondent gave no reply.

The Respondent testified that on one occasion after being told that as he was not "certified" and could no longer sign appraisals for FHA, at the request of Donald W. Riley, he did sign one appraisal as a Trainee to show the way they started to do it, that Exhibit 4 is that one appraisal, and that for ten or eleven months only Donald W. Riley signed his appraisals as he no longer could do so. The Respondent refused to say if he did any of these Riley-sign only type appraisals with anyone else.

According to the Respondent, he thought that USPAP required the format for the signatures in Exhibit 4. At the request of the Board's prosecutor, the Respondent read from a copy of Exhibit 4, an Appraisal of Real Estate (Fannie Mae Form 1004) for a parcel of real property located at 11713 Mackel Drive, Oklahoma City, Oklahoma 73170, signed by Walter M. King as the Appraiser and also signed by Donald W. Riley, as the Supervisory Appraiser, page 8, Section 19 from the Appraiser's Certification, as follows:

"I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any

individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it."

Upon the Respondent having finished reading a portion of his Exhibit 4 Appraisal Report into the record as to his certification that he prepared all conclusions and opinions about the real estate, the Respondent, referring to Validata Lender Services, LLC, stated that "We're going only by what they're told" in signing the appraisal reports in the manner they (meaning he and Donald W. Riley) did. The Respondent said that the Board would give him no advice, that Validata Lender Services, LLC ("Validata") claimed that FHA only wanted a "certified appraiser", and that he did not research USPAP for an answer. At the request of the Board's prosecutor, the Respondent read from Exhibit 2, the Transcript of his previous sworn testimony from September 24, 2012, page 57, lines 6 through 19, as follows:

"Q Okay. I want you to look at Exhibit 4, page 22. If your procedure at this time was just Mr. Riley was to sign the report, why do we have a version that Mr. Riley sent into the board as having both of you sign this report?
A Because we both felt – the one that we sent into the loan company or to FHA was the ones that they required and that Exhibits 2 and 3 that has only his signature, but once I send them in I correct them because even though they said that it was that way, I was told in school, I was told in every class I've taken and everything else that if you're the appraiser, you sign on the left, the supervisor signs on the right."

At this point, the Board's prosecutor, Steve McCaleb, said that he had no further questions at that time and the Hearing Panel began asking its questions. The Respondent testified that he has done no appraising for anyone since the Donald W. Riley hearing last year (*See* Exhibit 2), that he's paid dearly for the misinformation he received, that he lost $44,000.00 since then as he was doing 15 to 20 appraisals per month at $6,000.00 per month, that he is down to $2,000.00 per month as he his only doing appraisals for only two (2) local banks on conventional loans, that he no longer does

work for Validata Lender Services, LLC, that no one from the Board would help him, and that all appraisers got the same letter as he did and inquired of the Hearing Panel if they likewise received the same letter. Continuing, the Respondent testified that he tried to get accurate information that he personally never tried to contact FHA that he relied on Validata's word that Donald W. Riley called someone on the Board and talked to him, someone named "Ron", whose name he stated with a puzzled look on his face. The Respondent again stated that he does appraisals for two different banks, in-house appraisals only ranging in value from $30,000 to $250,000, that he does residential only, no commercial appraisals, that he has done some appraisals for those banks with values in excess of $250,000.00, that the State sent him a kit to become state certified, that he lacks only a finance class in his efforts to upgrade, that he had three years of college, and that he has no college degree.

In light of the Respondent's testimony, the Board's prosecutor gave the Respondent a document labeled as Exhibit 5, the regulations of the FHA applicable to the FHA requirements for reporting complete and accurate appraisal information to HUD that was reviewed by the Respondent and to which he had no objection although he noted that that he had never seen the FHA regulations before. The Respondent further testified that the FHA rules changed in 2011, that such change in the FHA's rules was the reason he asked Donald W. Riley to also sign his appraisals as he was certified, that it was Validata that said that it could no longer accept appraisals with both his signature and that of Donald W. Riley, that Validata sent its appraisal orders to his (the Respondent's) e-mail address, that either he or Donald W. Riley could open the e-mailed order, and that Validata continued to send appraisal orders to him even after he could no longer sign his own appraisals.

In his response to further Hearing Panel questioning, the Respondent stated that he kept a copy of every appraisal order in his work files, that he did not know if the appraisal orders had both

his name and that of Donald W. Riley on them, and that he carries E & O (Errors & Omissions) insurance in the amount of $1,000,000.00. In light of Mr. King's testimony, the Board's prosecutor gave the Respondent a document labeled as Exhibit 6, an Appraisal Order from Validata Lender Services, LLC dated October 31, 2011, for 11713 Mackel Drive, Oklahoma City, Oklahoma 73170, that he identified and to which stated that he had no objection to its admission. Continuing to respond to the Hearing Panel's questions, the Respondent testified that Validata contacted him for follow-up on his appraisals (signed not by him but the "certified" Donald W. Riley) by phone and by e-mail and that Validata knew it was him (Mr. King) doing the appraisals, that both he and Donald W. Riley signed off on approximately sixty (60) appraisals in three (3) months, that he is not currently AQB compliant, that he's a victim of misinformation, that he just took them (Validata) at their word. With that said, the Board through the Board's prosecutor, rested.

Once the Board rested, the Respondent, Walter M. King, was given the opportunity to present his defense, which he did through only his testimony. Immediately prior to presenting his defense, the Respondent was reminded by the Hearing Panel Counsel that he was still under oath. Despite having stipulated (i.e., admitted) to the facts listed in Allegation of Fact No. 11(B) in the Notice to the contrary that his unlicensed son did occasionally complete an appraisal report, the Respondent testified as to the Allegation of Fact No. 11(C) in the Notice that his son never helped him the appraisal process other than having helped him measure houses at times, that his wife got cancer, that his son's 2-year old daughter also got cancer, that his son would travel with him while he was in the field measuring houses so that they could talk with and console one another. As to Allegation of Fact No. 11(D) in the Notice, the Respondent testified that after the first two (2) to three (3) months, he never signed another appraisal as an appraiser together with the signature of Donald W. Riley as a supervisory appraiser except the one that Donald W. Riley asked him to sign, the Exhibit 4 appraisal (duplicate of Exhibit 3 save only the addition of the Respondent's signature

and related signature block as the appraiser), that he was surprised the one appraisal that Donald W. Riley had him sign was introduced as evidence at Donald W. Riley's hearing, that he did not change any of his files except once when Donald W. Riley asked him to do so, that he had taken courses to upgrade since the Donald W. Riley hearing, and that his electronic signature was protected as was Donald W. Riley's electronic signature so that neither he nor Donald W. Riley had access to the other's electronic signature.

Continuing as to Allegation of Fact No. 11(D) in the Notice, the Respondent testified that he did the appraisal, sent it to Donald W. Riley who would verify all of the information in the King-written appraisal report and Donald W. Riley would send it in to Validata, that payment from Validata would come in to Donald W. Riley (as he was the sole signer as the appraiser), that Donald W. Riley would write him a check minus Donald W. Riley's fee from Validata's check, the fee split with Donald W. Riley was not equal, that he paid Mr. Riley a fee for signing the appraisal as Donald W. Riley was "certified", that Donald W. Riley did few of the FHA appraisals, that he, Mr. King, did most all of the FHA appraisals but for 2 or 3, and that Validata refused to allow him to add a sentence to any appraisal that he, Mr. King, compiled the information in the appraisal report. With that being said, the Respondent rested his defense. The Respondent presented no witnesses in his defense and at no time introduced any exhibits into evidence on his own behalf.

In his closing the Board's prosecutor Mr. McCaleb noted the discrepancies in Mr. King's testimony that day as compared with his prior sworn testimony as provided in Exhibit 2 and in particular the excerpts from such prior testimony in the Donald W. Riley hearing that he had asked the Respondent to read into the record, and that the Respondent could have looked to USPAP for guidance in Advisory Opinion 221 to USPAP (p. F-104) as to reporting significant real property appraisal assistance but that he did not do so.

In his closing, the Respondent stated that he only signed one appraisal with his name on it after the first 2 to 3 months in his arrangement with Donald W. Riley, that he asked the Board staff about how to sign off under USPAP but they would not help him, that this won't ever happen again, that he won't ever have anything signed by someone else and that he's learned his lesson to not take anyone at their word.

Although a request for oral argument was timely filed by the Respondent, King, he did not appear for oral argument.

## 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, WALTER M. KING, is a non AQB compliant state licensed appraiser in the State of Oklahoma, holding certificate number 12517SLA and was first licensed with the Oklahoma Real Estate Appraiser Board on June 30, 2001.

## FINDINGS OF FACT

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

4. The Respondent, WALTER M. KING, is a non AQB compliant state licensed appraiser in the State of Oklahoma, holding certificate number 12517SLA and was first licensed with the Oklahoma Real Estate Appraiser Board on June 30, 2001.

5. As part of his appraising practice, Respondent has in the past been hired to complete appraisals to support Federal Housing Administration (FHA) loans.

6. Upon information submitted by Respondent, at some point in time the FHA changed its requirements and now requires that a licensure level of a Certified Residential Appraiser is required to do FHA loan appraisals.

7. In reaction to the new FHA requirements, ultimately, Respondent engaged in an arrangement as follows:

A) Donald W. Riley, who Respondent has known for forty (40) years and is a Certified Residential Appraiser, would receive assignments from Respondent's client, Validata (an appraisal management company). Respondent had access to these orders via his computer, and would accept these appraisal assignments.

B) Respondent would then, with the occasional assistance of his unlicensed son for some reports, complete the appraisal report.

C) Donald W. Riley would sign the report as the only signator and the report would be submitted to the client. Nowhere in the report would it state that Respondent and/or his son assisted in the preparation of the report. Riley would receive the payment and split the fee with Respondent.

D) After the report was submitted to the client with only Donald W. Riley's signature, Respondent and Donald W. Riley would then reproduce the same report but with both of their signatures for their internal files. Respondent's motivation for the internal report with his signature included was for licensure upgrading purposes.

8. Donald W. Riley was the subject of an OREAB disciplinary action, Complaint #11-078. The fore-mentioned procedure he had with Respondent was discovered during the hearing, and memorialized in the OREAB's Order.

## CONCLUSIONS OF LAW

The Board adopts in full the Conclusions of Law as determined by the Hearing Panel below:

1. The 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) 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. The 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. The 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. The 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. The 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."

6. The Respondent Walter M. King has violated 59 O.S. §858-723(C)(5), in that the Respondent committed an act or omission involving dishonesty or misrepresentation with the intent to substantially benefit himself as the certificate holder.

## FINAL ORDER

**WHEREFORE,** having adopted in full the Findings of Fact and Conclusions of Law entered by the Disciplinary Hearing Panel the Board issues its Final Order as follows:

1. Respondent Walter M. King shall be placed on **PROBATION** for a period of **ONE (1) YEAR** from the date that this final order is issued by the Board. During the period of probation, Respondent Walter M. King 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 all 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 Walter M. King, during the period of probation, shall successfully complete corrective education as follows:

- The **FIFTEEN (15) HOUR** Course Number 600: National USPAP Course
- The **FIFTEEN (15) HOUR** Course Number 614: Residential Report Writing and Case Studies

The course(s) must all be completed with copies of certificates of course completion transmitted to the administrative office of the Board within **ONE (1) YEAR** from the date of the Board Order. The course(s) must be tested and must be live courses, attended in person by the Respondent (not distance and/or correspondence and/or on-line courses). The course(s) shall not be counted toward continuing education credit by the Respondent.

3. Respondent Walter M. King shall pay the sum of not to exceed Five Hundred Dollars ($500.00), towards the 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

Respondent with the final order. Costs shall be paid in monthly installments of $50.00 each, with the first payment due no later than November 1, 2013 and continuing no later than the first of each month thereafter until fully paid, and in no event shall such monthly installments be paid later than **ONE (1) YEAR** from the date of the Board Order.

4. Should the Respondent Walter M. King continue to pursue upgrade so as to become an AQB compliant Certified Residential Real Estate Appraiser, none of the Respondent's appraisals involving or related to Donald W. Riley shall be used or considered for purposes of such upgrade.

5. Failure by Respondent Walter M. King 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 U. S. 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 9th day of October, 2013.

By: Eric M. Schoen
**ERIC SCHOEN**, Board Secretary

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

## CERTIFICATE OF MAILING

I, Rebecca Keesee, hereby certify that on the 10th day of October, 2013 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:

**Walter M. King** **7012 2210 0000 8959 6688**
P.O. Box 112
Chickasha, OK 73023

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

**David W. Atkinson, Hearing Panel Member**
P.O. Box 30156
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**Patrick O. Glenn, Hearing Panel Member**
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