BEFORE THE REAL ESTATE APPRAISER BOARD
STATE OF OKLAHOMA

In the Matter of DUSTIN M. ZUMO,	)	
	)	Complaint #12-056
Respondent.	)	

CONSENT ORDER FOR RESPONDENT DUSTIN M. ZUMO

COMES NOW the Oklahoma Real Estate Appraiser Board ("OREAB"), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent DUSTIN M. ZUMO, represented through his Counsel of Record, Robert F. Morgan, 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 August of 2012, Tulsa Teachers Credit Union, (the "client") hired Dustin M. Zumo ("Zumo" or "Respondent") to complete an appraisal (the "appraisal" or "report") for a property located at 2240 South Troost Avenue, Tulsa, Oklahoma (the "subject property"). Respondent's opinion of market value for the subject property was $460,000.

2. Respondent completed the appraisal and transmitted the appraisal to the client.

3. The subject property is in an area that is prestigious, unique, and requires a special knowledge of the area.

4. Respondent reported the gross living are of the subject property to be 3,291 square feet. The County Assessor reports the gross living area as 3,383 square feet.

5. Prior to Respondent's report, on or about April 26, 2012, a different Certified Residential Appraiser in the State of Oklahoma also completed a report on the subject property, and measured the house to have 3,595 square feet of gross living area.

6. Subsequent to Respondent's report, on or about September 19, 2012, another Certified Residential Appraiser in the State of Oklahoma also completed a report on the subject property, and measured the house to have 3,554 square feet, and derived an opinion of market value as $680,000.

7. Respondent's comparable sale number one was reported by Respondent to have 2,665 square feet of gross living area, and this is the number he used for adjusting purposes. Respondent used MLS as his Data Source which MLS reported comparable sale number one as having 3,025; Respondent did not explain why this data was ignored. The County Assessor, his verification source, reported the 2,665 square feet.

8. Respondent's comparable sale number two was reported by Respondent to have 2,691 square feet of gross living area.

9. Respondent's comparable sale number four was reported by Respondent to have 2,574 square feet of gross living area, and this is the number he used for adjusting purposes. Respondent used MLS as his Data Source which MLS reported comparable sale number four as having 2,798; Respondent did not explain why this data was ignored. The County Assessor, his verification source, reported the square footage as 2,299 square feet. The report does not explain what source reported the 2,574 square foot measurement of comparable sale number four.

10. Respondent's comparable sale number five was reported by Respondent to have 2,724 square feet of gross living area.

11. The size discrepancy between the comparables chosen by Respondent and the subject property, even at his measurement of 3,291 square feet, makes his comparable sales one, two, four, and five, as reported, not comparable based upon the square footage.

12. More appropriate comparables were available to the Respondent which he did not utilize, nor explain their omission.

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) Standard 1 (as to correctly completing the research regarding the square footage), Standards Rule 1-4(a) of the Uniform Standards of Professional Appraisal Practice.

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."

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

ORDER

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

1. Respondent successfully completes corrective education as follows:

   - TWENTY (20) HOURS – 656: Mastering Unique and Complex Property Appraisal: 1311, to be completed within 180 days after this order is ratified by the OREAB; and

2. Respondent pay an administrative fine in the amount of Five Hundred Dollars ($500). Said fine is pursuant to 59 O.S. §858-723 and shall be paid in accordance with said section.

ACCEPTANCE BY THE BOARD

1. This Consent Order will not be submitted for Board consideration until it has been agreed to and executed by Respondent. The Consent Order shall not become effective until it has been approved by a majority of the Board.

2. It is hereby agreed between the parties that this Consent Order shall be presented to the Board with a recommendation of approval at the next scheduled meeting of the Board.

3. Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, a formal disciplinary hearing on the complaint against Respondent may be conducted.

4. If the Consent Order is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the 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 into 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.

VOLUNTARY WAIVER OF RIGHTS

Respondent is fully aware of his rights to contest the charges pending against him. These rights include: representation by an attorney at his own expense; the right to a public hearing on any charges or allegations filed; the right to confront and cross-examine witnesses called to testify against him; the right to present evidence on his own behalf; the right to compulsory process to secure attendance of such witnesses; the right to testify on his own behalf; the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint and the right to obtain judicial review of the Board's decision. Respondent in exchange for the Board's acceptance of this Consent Order voluntarily waives all of these rights.

COMPLETE AGREEMENT

This Consent Order embodies the entire agreement between the Board and Respondent. It may not be altered and modified without the express consent of the parties.

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 suspended immediately until said terms and conditions are met.

RESPONDENT:

DUSTIN M. ZUMO

October 2, 2013
DATE

ROBERT F. MORGAN,
Counsel for Respondent

October 2, 2013
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
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma 73112

10-6-13
DATE

IT IS SO ORDERED on this 9th day of October, 2013.

Eric M. Schoen

ERIC SCHOEN, Secretary
Real Estate Appraiser Board

OKLAHOMA REAL ESTATE APPRAISER BOARD

By: Bryan Neal

BRYAN NEAL, OBA #6590
Assistant Attorney General
Attorney for the Board
2401 NW 23rd Street, Suite 28
Oklahoma City, Oklahoma 73152

CERTIFICATE OF MAILING

I, Rebecca Keesee, hereby certify that on the 9th day of October, 2013 a true and correct copy of the above and foregoing Consent Order for Respondent Dustin M. Zumo was placed in the U.S. Mail, with postage pre-paid, by certified mail, return receipt requested to:

Robert F. Morgan, Jr. **7012 2210 0000 8959 6671**
Wheeler, Wheeler, Morgan, Faulkner & Brown
1900 N.W. Expressway, Suite 450
Oklahoma City, OK 73118
COUNSEL FOR RESPONDENT

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

Dustin M. Zumo
10724 N. 152nd E. Avenue
Owasso, OK 74055
RESPONDENT

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

Rebecca Keesee
REBECCA KEESEE