

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

In the Matter of KATHLEEN P. CROWE and            )  
                  BRIAN E. BLACKBURN,                    )     Complaints #09-032 & 09-050  
  )  
                  Respondents.                            )  
                                  Disciplinary Hearing.    )

**BOARD'S DECISION ON  
DISCIPLINARY HEARING PANEL RECOMMENDATION**

ON THE 2nd day of April, 2010, the above numbered and entitled causes came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel hearing this case consisted of three members, Donald L. Justice, J. Pat McGlamery, and Carl S. Schneider. Carl S. Schneider was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant Attorney General Bryan Neal. Both cases were prosecuted by the Board's prosecutor, Stephen L. McCaleb. The Respondent, Brian E. Blackburn, appeared not; Respondent, Kathleen P. Crowe, appeared pro-se, after having been mailed a copy of each of the respective Notices of Disciplinary Proceedings and Appointment of Hearing Panel (including the First Amended Notice of Disciplinary Proceedings and Appointment of Hearing Panel for Complaint #09-032) by certified mail with return receipt requested pursuant to the Oklahoma Certified Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, being fully advised in the matter, makes the following Order adopting the Panel's Recommendation

**JURISDICTION**

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Certified Real Estate Appraiser 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.

**FINDINGS OF FACT WITH RESPECT TO COMPLAINT #09-050**

The Board adopts in full the finding of the hearing panel that the following facts were proved by clear and convincing evidence:

1. Respondent Kathleen P. Crowe is a Certified Residential Real Estate Appraiser in the State of Oklahoma, holding credential number 12601CRA and was first credentialed by the Oklahoma Real Estate Appraiser Board on August 10, 2004.

2. Brian E. Blackburn was a Trainee Appraiser in the State of Oklahoma, holding credential number 90756TRA and was credentialed by the Oklahoma Real Estate Appraiser Board during the period July 8, 2005 through July 31, 2008 at which time his credential expired. Respondent Brian E. Blackburn submitted an Affidavit of Voluntary Surrender of Appraiser Credential in Lieu of Disciplinary Proceedings in connection with the then-pending Complaints #09-050 and #09-032 on February 18, 2010, the same day as the scheduled hearing.

3. On or about September 20, 2006, Respondents completed an appraisal on the subject property (the "appraisal") for Nationstar Mortgage, LLC. The parcel of property appraised is 415 South Quincy Street, Enid, Oklahoma (the "subject property").

4. The appraisal's date of appraised value was reported as September 18, 2006. Respondents reported a final estimate of value as Seventy Five Thousand Dollars and 00/100 (\$75,000.00). The report was submitted to the client. Said report contained the signatures of Respondent Brian Blackburn and Respondent Kathleen P. Crowe, who signed as Respondent Brian Blackburn's supervisory appraiser. The assignment type was for a refinance transaction for Steve Mondoux. The appraisal states in each of the Respondents' signed certifications that the appraiser's analyses, opinions and

conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP").

5. The Respondents committed errors in their appraisal report, which include the following contained in paragraphs 6-12.

6. The subject property is located in an area which includes nearby commercial influences. Respondents failed to analyze these influences. Said influences could have negatively impacted the market value of the property. Oklahoma Certified General Appraiser Rick Carlisle of Enid, Oklahoma, the location of the subject property, testified under oath that he viewed the subject property from the exterior only from both the street and the alley to the rear of the subject property, took photographs (copies of which he produced at the hearing which were admitted into the record), that he performed a retrospective review in time and that he did not perform a USPAP review. The Hearing Panel finds the sworn testimony of Certified General Appraiser Rick Carlisle to be credible and his testimony was supported by the documentation provided by Mr. Carlisle including, but not limited to, photographs, Multi-List Service (MLS) sheets, courthouse records and aerial maps.

7. Respondents were not geographically competent to appraise the property and failed to utilize necessary data sources for the subject area. Respondents failed to affiliate themselves with an appraiser(s) competent to conduct appraising practices in the subject area and Respondents did not access the Multi-List Service of Enid, Oklahoma. Respondent Kathleen P. Crowe testified that she relied on representations of Respondent Brian Blackburn that as he had previously completed several other appraisals in the City of Enid, Oklahoma, the location of the subject property, he was competent to complete an appraisal on the subject property. Respondent Kathleen P. Crowe admitted that neither she nor Respondent Brian Blackburn subscribed to or utilized the Enid Multi-List Service.

8. The comparables utilized in the appraisal report by Respondents were of better quality than the subject property which constitutes misrepresentation. Oklahoma Certified General Appraiser Rick Carlisle testified that comparables were available of more similar homes in quality and location.

9. The errors made by Respondents appear to be for the purpose of inflating the subject property's value. Oklahoma Certified General Appraiser Rick Carlisle of Enid, Oklahoma, testified that comparables were available that were more similar to the subject property in physical characteristics and proximity.

10. On or about February 13, 2008, a foreclosure action was filed against Steven L. Mondoux, et al., in the District Court in and for Garfield County, regarding the subject property, given the case number CJ-2008-83. Said matter was styled as Nationstar Mortgage, LLC v. Steven L. Mondoux and Rachel L. Mondoux.

11. On or about April 15, 2008, a judgment was entered in the District Court in and for Garfield County in case number CJ-2008-83. The property sold at a sheriff's sale for Nineteen Thousand Five Hundred and 00/100 Dollars (\$19,500.00).

12. The Respondents did not maintain an adequate work file. Respondent Kathleen P. Crowe, as the supervising appraiser, admitted that she did not maintain any work file related to the appraisal.

#### **CONCLUSIONS OF LAW WITH RESPECT TO COMPLAINT #09-050**

The Board adopts in full the conclusion of the Hearing Panel that said conduct by the Respondent is in violation of:

1. The Respondent Kathleen P. Crowe 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."

2. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C) (6) through 59 O.S. §858- 726, in that the Respondent Kathleen P. Crowe has violated:

- A) The Conduct and Management Sections of the Uniform Standards of Professional Appraisal Practice Ethics Rule;
- B) The Record Keeping Rule of the Uniform Standards of Professional Appraisal Practice;
- C) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;
- D) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
- E) Standards Rules 1, 1-1, 1-2, 1-4, 1-5, 2, 2-1, 2-2 and 2-3 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rules.

3. The Respondent Kathleen P. Crowe 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. The Respondent Kathleen P. Crowe 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."

5. The Respondent Kathleen P. Crowe 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 or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

6. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C)(10): "Accepting an appraisal assignment when the employment itself is

contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment."

7. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C) (13), in that the Respondent Kathleen P. Crowe has 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."

#### **FINDINGS OF FACT WITH RESPECT TO COMPLAINT #09-032**

The Board adopts in full the finding of the hearing panel that the following facts were proved by clear and convincing evidence:

1. Respondent Kathleen P. Crowe is a Certified Residential Real Estate Appraiser in the State of Oklahoma, holding credential number 12601CRA and was first credentialed by the Oklahoma Real Estate Appraiser Board on August 10, 2004.

2. Brian E. Blackburn was a Trainee Appraiser in the State of Oklahoma, holding credential number 90756TRA and was credentialed by the Oklahoma Real Estate Appraiser Board during the period July 8, 2005 through July 31, 2008 at which time his credential expired. Respondent Brian E. Blackburn submitted an Affidavit of Voluntary Surrender of Appraiser Credential in Lieu of Disciplinary Proceedings in connection with the then-pending Complaints #09-050 and #09-032 on February 18, 2010, the same day as the scheduled hearing.

3. On or about August 14, 2006, Respondents completed an appraisal on the subject property (the "appraisal") for Nationstar Mortgage, LLC. The parcel of property appraised is 27222 State Highway 63, Hodgen, Oklahoma (the "subject

property"). Hodgen is approximately two hundred nine miles from the Oklahoma City metro area.

4. The appraisal's date of appraised value was reported as July 21, 2006. Respondents reported a final estimate of value as One Hundred Fifteen Thousand Dollars and 00/100 (\$115,000.00). The report was submitted to the client. Said report contained the signature of Respondent Kathleen P. Crowe, who signed as Respondent Brian E. Blackburn's supervisory appraiser. The assignment type was for a refinance transaction with the current owner being indicated as Tonia Marie.

5. The Respondents committed errors in their appraisal report, which include the following contained in paragraphs 6-12.

6. The subject property is a modular home with vinyl skirting. The evidence submitted confirmed that the factory delivered price of the modular home on and a part of the subject property is approximately \$56,000. Respondents used comparables superior in quality and location, which inflated the value and which constitutes misrepresentation.

7. In the Appraisal Report, the Respondents stated the subject property contains 5 acres, while the county records submitted into evidence indicate the tract is in fact 10.33 acres. The Respondents were directed by appraisal management company NEAS to limit the appraisal to five (5) acres yet the Respondents failed to disclose this fact in the Appraisal Report.

8. The comparables provided by Respondents were of better quality than the subject property and comparables #1, #3, #4 and #5 are brick homes which is at least \$8.00 to \$10.00 a square foot higher than a vinyl sided home with only vinyl underpinning.

9. Respondents' cost approach indicates a value of \$145,650.00 or \$70.00 per square foot, a conventional built home of this quality in this market is around \$56.21

per square foot. The factory delivered price of this dwelling is around \$56,000.00.

10. The Respondents' comparable that contained 38.14 acres was only adjusted \$3,314.00 for the difference of 38.14 acres versus 5 acres actually appraised of the subject property (Exhibit3, page 3-4, #8 attached). This would mean the Respondents adjusted only \$100.00 per acre for the difference in these site values. Respondents' comparable with 22 acres, was only adjusted downward \$1,700.00, which would mean this 22 acres was only valued at \$350.00 per acre and which is totally unsupported in the market. This 22 acres would be valued at a minimum of \$900.00 per acre of \$19,800.00. This would require a negative adjustment of \$13,800.00. The Respondent Kathleen P. Crowe, as the supervisory appraiser, admitted that more supervisory consideration should have been given to these adjustments, indicating the possibility of errors (See Exhibit 3 attached).

11. The errors made by Respondents appear to be for the purpose of inflating the property's value. The sales utilized by the Respondents were not truly comparable to the subject property

12. The Respondents did not maintain an adequate work file. The Respondent Kathleen P. Crowe, as the supervising appraiser, admitted that she did not maintain any work file related to the appraisal.

13. On or about October 30, 2007, a foreclosure action was filed against Toni Mallena Marie, et al., in the District Court in and for LeFlore County, regarding the subject property, given the case number CJ-2007-819. Said matter was styled as Nationstar Mortgage, LLC v. Tonia Mallena Marie, et al.

14. On or about March 7, 2008, a judgment was entered in the District Court in and for LeFlore County case number CJ-2007-819.

**CONCLUSIONS OF LAW WITH RESPECT TO COMPLAINT #09-032**

The Board adopts in full the conclusion of the Hearing Panel that said conduct by the Respondent is in violation of:

1. The Respondent Kathleen P. Crowe 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."

2. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C) (6) through 59 O.S. §858- 726, in that the Respondent Kathleen P. Crowe has violated:

- A) The Conduct and Management Sections of the Uniform Standards of Professional Appraisal Practice Ethics Rule;
- B) The Record Keeping Rule of the Uniform Standards of Professional Appraisal Practice;
- C) The Competency Rule of the Uniform Standards of Professional Appraisal Practice;
- D) The Scope of Work Rule of the Uniform Standards of Professional Appraisal Practice;
- E) Standards Rules 1, 1-1, 1-2, 1-4, 1-5, 2, 2-1, 2-2 and 2-3 of the Uniform Standards of Professional Appraisal Practice. These include the sub sections of the referenced rules.

3. The Respondent Kathleen P. Crowe 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. The Respondent Kathleen P. Crowe 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."

5. The Respondent Kathleen P. Crowe 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 or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act."

6. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C)(10): "Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment."

7. The Respondent Kathleen P. Crowe has violated 59 O.S. § 858-723(C) (13), in that the Respondent Kathleen P. Crowe has 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**

The Board, having adopted the Findings of Fact and Conclusions of Law as set forth above, sets forth the following Final Order confirming the recommendation of the Hearing Panel:

1. The Respondent Kathleen P. Crowe is fined Seven Hundred Fifty Dollars (\$750.00), payment to be in accordance with the provisions of the Act.

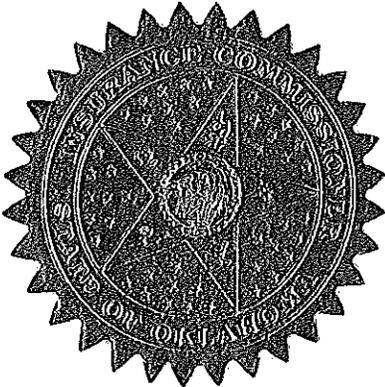
2. The Respondent Kathleen P. Crowe shall be under probation for a period of one (1) year from the date of the Order of the Board adopting this recommendation during

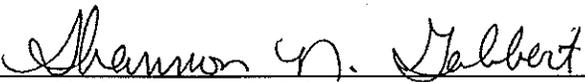
which Respondent Kathleen P. Crowe will submit a log of all of her appraisals to the administrative office of the Board not later than the fifth day of each month and will provide copies of any appraisal reports and work files upon request of the Board during the period of probation.

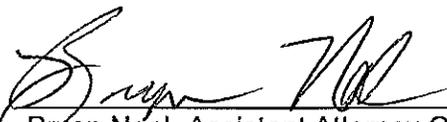
3. The Respondent Kathleen P. Crowe shall be banned from serving as a supervisory appraiser for any trainee appraiser for a period of five (5) years.

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

IT IS SO ORDERED this 2<sup>nd</sup> day of April, 2010



  
Shannon N. Gabbert, Board Secretary  
Real Estate Appraiser Board

  
Bryan Neal, Assistant Attorney General  
Counsel to the Board

**CERTIFICATE OF MAILING**

I, Christine McEntire, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed Certified Mail, Return Receipt Requested on this 8 day of April, 2010 to:

**Kathleen P. Crowe**  
4408 N.W. 16<sup>th</sup> Place  
Oklahoma City, Oklahoma 73107

**7009 2820 0001 5683 5372**

**Brian E. Blackburn**  
17005 Crest Valley  
Edmond, Oklahoma 73012

**7009 2820 0001 5683 5365**

and by First Class Mail to:

**Donald H. Justice, Hearing Panel Officer**  
P.O. Box 988  
Watonga, Oklahoma 73772

**Carl S. Schneider, Hearing Panel Officer**  
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Tulsa, Oklahoma 74136

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