

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

IN THE MATTER OF **DAN W. MONTAGUE,**)
RESPONDENT,)
)
Disciplinary Hearing.)

Complaint No. 06-037

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

ON THE 8th day of September, 2006, the above numbered and entitled cause came on for hearing before the Oklahoma Real Estate Appraiser Board (the "Board"). The Disciplinary Hearing Panel making the recommendation consisted of three members, Dana L. Norton, Philip J. Isaacs, and Charles W. Singleton. Dana L. Norton was elected and served as Hearing Panel Chairman. Said panel was represented by the Board's attorney, Assistant General Counsel Joann Stevenson. The case was prosecuted by the Oklahoma Real Estate Appraiser Board's prosecutor, Sue Wycoff. Respondent appeared by and through counsel, Michael D. Roberts after having been mailed a copy of the Recommendations of the Hearing Panel by certified mail with return receipt requested pursuant to the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-718, and the Oklahoma Administrative Procedures Act, 75 O.S. §§250-323.

The Board, with Mssrs. Allen and Wheeler recusing, having received the Hearing Panel's recommendations, heard arguments of counsel, and reviewed the briefs filed by Board prosecutor Ms. Wycoff and Respondent's counsel, Mr. Roberts, makes the following Order adopting in part and rejecting in part the Hearing Panel's Recommendation:

JURISDICTION

1. That the Oklahoma Real Estate Appraiser Board has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Real Estate Appraiser Act, 59 O.S. § 858-700 *et seq.*
2. That the proceedings were conducted in accordance with the Oklahoma Real Estate

Appraiser Act, 59 O.S. § 858-700 *et seq.*, and the Oklahoma Administrative Procedures Act, 75 O.S., § 301-323.

3. That the Respondent is a State Certified Residential Real Estate Appraiser in the State of Oklahoma holding certificate number 10438CRA.

FINDINGS OF FACT

1. That on February 3, 2006, the Real Estate Appraiser Board issued a Consent Order in settlement of Complaint 04-060, which called for, among other things, the surrender of Respondent's appraiser certificate for a period of thirty days.

2. That as part of that Consent Order, Respondent agreed to surrender his appraiser certificate immediately upon receipt of the Board's executed and filed Consent Order.

3. That the executed and filed Consent Order was sent to Respondent's attorney by certified mail and he returned the certified receipt dated February 23, 2006.

4. That Respondent has failed to surrender his appraisal certificate as agreed and ordered.

5. That Respondent argued that the landlord of his business space confiscated some of his belongings, including his appraiser certificate and pocket card, and refused, in the face of a court order, to release Respondent's belongings to him, including the certificate and pocket card, all well prior to the negotiation and execution of the aforementioned Consent Order.

6. That Respondent admitted having no intention of applying for replacement certificates and pocket cards because he didn't need them. Respondent also admitted having no documentation that he informed the Board of the issues surrounding his landlord's confiscation of his belongings.

7. That Respondent was dishonest in agreeing in the aforementioned Consent Order to surrender his appraiser certificate when he knew that he did not have a certificate in his

possession and that his landlord was refusing to relinquish said items to him and that he had no intention of applying for replacements to surrender to the Board.

CONCLUSIONS OF LAW

That Respondent's conduct as alleged above displays contempt for the authority of the Real Estate Appraiser Board, is evidence of unwillingness to be governed by the Rules and Statutes establishing the principles and conduct that guide certified real estate appraisers in the State of Oklahoma, and is in violation of Title 59 Section 858-723. A. 5.

ORDER

1. The Board adopts the Disciplinary Hearing Panel's Findings of Facts and Conclusions of Law as set forth above. The Board notes that many of Respondent's arguments extend beyond the recommended discipline in contravention of OAC 600:15-1-17, but, in any event, a review of the Hearing Panel Recommendation and transcript of the proceedings show no error in the Hearing Panel's Findings of Fact or Conclusions of Law.

2. However, the Board modifies the Recommended Discipline as set forth in the Panel's Recommendations to read as follows:

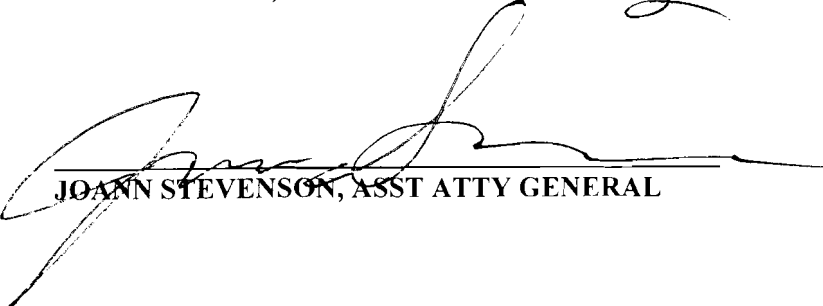
- A. That within fifteen (15) days from the date of this Board Order, Respondent shall apply for a replacement certificate and pocket card, said application including the facts supporting the reasons Respondent does not have his current appraiser certificate and pocket card in his possession.
- B. That within fifteen (15) days of receipt of a replacement certificate and pocket card, that Respondent surrender said replacement certificate and pocket card with a letter of transmittal explaining that Respondent is surrendering the certificate and pocket card in accordance with the Board Order.
- C. Upon the date of surrender of the replacement certificate and pocket card, Respondent's appraiser credential is **SUSPENDED** for a period of not less than **TWO (2) MONTHS**.

D. If Respondent fails to apply for a replacement appraiser certificate and pocket card as outlined above, and/or fails to surrender the replacement appraiser certificate and pocket card to the Board as outlined above, and/or holds himself out as a licensed appraiser in violation of Board Rule OAC 600:15-1-15 during the period of suspension imposed above, and/or is found to have violated any provision of the Oklahoma Certified Real Estate Appraisers Act or any of the rules or regulations promulgated pursuant thereto, Respondent's appraiser credential shall be **REVOKED**.

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 8th day of September, 2006.


KIM HOLLAND, CHAIRMAN


JOANN STEVENSON, ASST ATTY GENERAL

CERTIFICATE OF MAILING

I, George R. Stirman III, hereby certify that a true and correct copy of the above and foregoing Board's Decision on Disciplinary Hearing Panel Recommendation was mailed postage prepaid by certified mail with return receipt requested on this 19th day of September, 2006, to:

Dan W. Montague
c/o Michael D. Roberts
PO Box 5672
Enid, OK 73702

CERTIFIED NUMBER
7006 0810 0002 5164 4779

and that copies were mailed by first class mail to:

Philip J. Isaacs, Hearing Panel Member, 120 N. Robinson, 1404 1st Nat'l Center, OK City, OK 73102;
Dana L. Norton, Hearing Panel Member, 3501 Rolling Lane, Midwest City, OK 73110;
Charles W. Singleton, Panel Member, PO Box 1005, Lawton, OK 73502;
Sue Wycoff, Moore and Vernier, 301 NW 63rd St, Ste 550, Oklahoma City, OK 73116; and
Joann Stevenson, Asst Atty General, 4545 N Lincoln Blvd, Ste 260, Oklahoma City, OK 73105.



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