

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

In the Matter of **MICHAEL T. GIESE** and)
 PEGGY S. THOMPSON,)
 Respondents,)
 Disciplinary Hearing.)

Complaint #07-066

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

ON THE 7th day of November, 2008, 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, Frank E. Priegel Jr., Dan M. Robertson, 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 Patricia A. Podolec. The case was prosecuted by the Board's prosecutor, Stephen L. McCaleb. The Respondents, Peggy S. Thompson and Michael T. Giese appeared, represented by John Alberts and Terry Panza, respectively, after having been mailed a copy of the Notice of Disciplinary Proceedings and Appointment of 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, being fully advised in the matter, makes the following Order adopting in part and not adopting in part 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 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 Respondent Peggy S. Thompson is a Trainee Appraiser in the State of Oklahoma, holding credential number 90724TRA and was first licensed with the Oklahoma Real Estate Appraiser Board on April 20, 2005.

4. That Respondent Michael T. Giese is a Certified Residential Appraiser in the State of Oklahoma, holding credential number 12503CRA and was first licensed with the Oklahoma Real Estate Appraiser Board on June 28, 2001.

FINDINGS OF FACT

The Board adopts in full the conclusion of the hearing panel that the findings of fact as set forth in the subsequent paragraphs were proved by clear and convincing evidence:

1. On or about September 28, 2005, Financial Concepts Mortgage (the “client”) hired, through a Request for Appraisal, Peggy Thompson (“Thompson”) d/b/a Abode Appraisal Services to appraise a parcel of property located at 11509 Richhaven Road, Oklahoma City, Oklahoma (the “subject property”). In its Request for Appraisal, the client listed Kevin F. Broderick as the applicant and estimated the value of the property as Three Hundred Thousand Dollars and 00/100 (\$300,000.00).

2. On or about October 5, 2005, Thompson completed an appraisal on the subject property (the “appraisal”). The appraisal’s date of appraised value was reported as October 4, 2005. Respondent reported a final estimate of value as Three Hundred Thousand Dollars and 00/100 (\$300,000.00). The report was submitted to Financial Concepts.

3. Said report contained the signature of Mike Giese who signed as Peggy Thompson’s supervisor.

4. Said appraisal states in the appraiser's signed certification 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 report contained numerous errors which in the aggregate may have led to an inflated value of the subject property.

6. Respondents ignored previous listings of the subject property while having the information accessible.

7. The subject property is a planned unit development and Respondent failed to recognize this in the report. It should have been reported as PUD 95-A rather than R-1.

8. Respondents reported that the street has a concrete surface. However, the street is asphalt.

9. Respondents incorrectly reported that the subject property's street did not have sidewalks.

10. Respondents failed to include a sketch of the property with the appraisal.

11. Respondents gross living area square footage calculation mirrors that of the Oklahoma County Assessor's office and Respondent failed to measure the property.

12. Respondents reported an incorrect square footage for comparable one and failed to list various amenities of the comparable.

13. Respondent's exclusion of amenities and incorrect square footage led to inappropriate adjustments to the comparables.

14. Respondent Thompson had at the time of the appraisal a bias towards the borrower in the transaction and certified that she did not.

15. The parties stipulated that a foreclosure action was initiated on the subject property on or about December 4, 2006, and the property sold at sheriff's sale with the issuance of an order confirming sheriff's sale on or about July 6, 2007.

CONCLUSIONS OF LAW

The Board, adopting the Panel's conclusions, makes the finding that it was proven by clear and convincing evidence that Respondent's conduct was in violation of the following:

1. That Respondent Thompson has violated 59 O.S. § 858-723(A)(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. That Respondent Thompson has violated 59 O.S. § 858-723(A)(6) through 59 O.S. §858- 726, in that she violated: Standards Rule 2-3 of the Uniform Standards of Professional Appraisal Practice.

3. That Respondents have violated 59 O.S. § 858-723(A)(6): "Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Real Estate Appraisers Act."

4. That Respondent Thompson has violated 59 O.S. § 858-723(A)(8): "Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal."

5. That Respondent Thompson has violated 59 O.S. § 858-723(A)(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. That Respondents have violated 59 O.S. § 858-723(A)(13), in that they 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, hereby modifies the Hearing Panel's Recommendation and sets forth in the following final order:

IT IS ORDERED:

As to Respondent Giese:

1. He be permanently prohibited from supervising trainee appraisers.
2. He be assessed a fine of \$1,500.00.

As to Respondent Thompson:

1. She be suspended from appraisal practice for thirty (30) days from the date of a final order issued by the Board adopting this recommendation. This suspension shall be carried out in accordance with the provisions of OAC 600:15-1-15.

2. She successfully complete the 15-hour National USPAP course and the Appraisal Institute's 8-hour Business Ethics course approved by the Board as Course #776. None of the hours may be credited as continuing education credit or credit toward licensure upgrade. Furthermore, none of the courses may be completed online or through any other distance-learning medium. Courses so ordered must be completed and certificates of course completion furnished to the administrative office of the Board before the suspension ordered in paragraph 1, above, may be lifted.


3. She be assessed a fine of \$500.00.

THE BOARD WISHES TO ADVISE THE RESPONDENTS THAT THEY HAVE THIRTY (30) DAYS TO APPEAL THIS ORDER WITH THE APPROPRIATE DISTRICT COURT.

IT IS SO ORDERED this 7 day of November, 2008.




KIM HOLLAND, Chairperson
Real Estate Appraiser Board


PRESTON DRAPER
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 postage prepaid by certified mail with return receipt requested on this 18 day of November, 2008 to:

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