

BEFORE THE REAL ESTATE APPRAISER BOARD
STATE OF OKLAHOMA

In the Matter of JOE GIBSON, Respondent.)))	Complaint #23-018 and #23-033
---	-------------	-------------------------------

CONSENT ORDER

COMES NOW the Oklahoma Real Estate Appraiser Board (“OREAB”), by and through the Prosecuting Attorney, Stephen McCaleb, and the Respondent JOE GIBSON, represented through his Counsel of Record, James Hodgens, 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 AS TO 23-018

1. On March 3, 2023, the Board issued Consent Order #23-006 as to Joe Gibson ("Gibson") in Complaint # 21-030 and Complaint # 21-052. Under the terms of the Board's order, Gibson was placed on a sixty (60) day period of probation. Under the terms of that probation, Gibson is required to submit a work log to board staff detailing all appraisal assignments completed the month prior. From that work log, appraisal reports may be randomly selected for review.
2. On May 23, 2023, pursuant to a request from Board staff, Gibson submitted his appraisal report for 22750 Knob Hill Road in Morrison ("subject address" or "subject appraisal").
3. On that same date, Board staff issued a document subpoena to Union State Bank for true and correct copies of the appraisal report(s) prepared by Gibson on or about April 28, 2023, for the 22750 Knob Hill Road address in Morrison.
4. On June 2, 2023, Board staff received a May 5, 2023 appraisal report for the

subject address from Union State Bank.

5. A computer-generated comparison of the appraisal report received from Gibson was made against the version received from Union State Bank. That comparison revealed significant discrepancies between the two reports. The Union State Bank appraisal is dated May 5, 2023, while the version received from Gibson is dated May 23, 2023. This is the same date Gibson emailed a PDF of the appraisal report to board staff.

6. The comparison report reflected 180 total changes, including 48 replacements, 107 insertions and 19 deletions. Changes include a change in the opinion of value, comments in the subject, neighborhood, site, and improvement sections. Adjustments were revised within the grid to the comparables, including to site, room count, net adjustments, and adjusted sales price. Additional comments were added to the sales comparison approach and the indicated value was changed. There are significant changes to the cost approach, including opinion of site value and quality rating. Gibson's version of the appraisal report also now includes a plat map, the deed, house specifications and general notes.

7. Three emails were received from Union State Bank reflecting conversations between the bank and Gibson. The last email occurred on May 5, 2023. Based on records received from Union State Bank, it appears that the May 5, 2023, version that the bank provided was the final version. No further revision requests were made by the lender, which would have resulted in the May 23, 2023, version provided by Gibson to Board staff.

8. Based on the above, it appears Gibson embellished and supplemented the subject appraisal report submitted to board staff for review, from that of the original appraisal submitted to Union State Bank. Work product is to be submitted to the Board in the same way it was provided to the client. Accordingly, there are material misrepresentations in the appraisal report submitted for review.

AGREED CONCLUSIONS OF LAW AS TO 23-018

1. § 858-723. Disciplinary Proceedings

C. The rights of any holder under a certificate as a trainee, state licensed, state certified residential or state certified general real estate appraiser may be revoked or suspended, or the holder of the certificate may be otherwise disciplined pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act, upon any of the grounds set forth in this section. The Board may investigate the actions of a trainee, state licensed, state certified residential or state certified general real estate appraiser, and may revoke or suspend the rights of a certificate holder or otherwise discipline a trainee, state licensed, state certified residential or state certified general real estate appraiser for any of the following acts or omissions:

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;

13. Violating any of the provisions in the code of ethics set forth in this act.

2. **USPAP's Ethics Rule** states that *"An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics."*

3. **The Conduct Section of USPAP's Ethics Rule** states that an appraiser: *"Must not communicate assignment results with the intent to mislead or defraud;"*

"Must not use or communicate a report that is known by the appraiser to be misleading of fraudulent;"

"Must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE."

4. **USPAP's Record Keeping Rule** states, in part: *"The work file must include true copies of all written reports."*

AGREED FINDINGS OF FACT AS TO 23-033

1. On March 3, 2023 the Board issued Consent Order #23-006 as to Joe Gibson ("Gibson") in Complaint #21-030 and Complaint #21-052. Under the terms of the Board's order, Gibson was placed *on* a sixty (60) day period of probation. Under the terms of that probation, Gibson was required to submit a work log to Board staff detailing all appraisal assignments completed the month prior. From that work log, appraisal reports were randomly selected for review.
2. On July 10, 2023, pursuant to a request from Board staff, Gibson submitted his appraisal report for 1218 S. Highland Avenue in Cushing ("subject" or "subject appraisal").
3. On July 14, 2023, Board staff issued a document subpoena to Waterstone Mortgage Corporation ("Waterstone") requesting copies of the appraisal report(s) prepared by Gibson on or about June 17, 2023, for the property located at 1218 S. Highland Avenue in Cushing.
4. On July 27, 2023 Board staff received a copy of the June 17, 2023 subject appraisal report from Waterstone.
5. A computer-generated comparison of the appraisal report received from Gibson was made against the version received from Waterstone. That comparison revealed significant discrepancies between the two reports. The comparison report reflected 205 total changes, including 1 replacement, 37 insertions and 167 deletions.

6. Changes include the addition of a table of contents, changes to commentary within the sales comparison approach, and changes to the value of the cost approach, additional commentary and a complete revision to the cost approach section, the addition of an adjustment addendum, and the addition to the comments on appraisal and report identification section. There were no revision requests found within Gibson's work file or provided by Waterstone.
7. On September 6, 2023 one of the Board's appraiser examiners submitted his work product review report. A review of this work product review reflects issues with most areas of the appraisal. In his conclusions, the examiner states that the appraisal sent to the lender contained a flawed land value and cost approach, an omitted page of adjustment explanations and a comparable sale grid page with a different analysis and cost approach value. These errors and omissions were modified in the report provided to the Board for a probation review. This is violation of the Conduct Section of the Ethics Rule.
8. Based on the above, it appears Gibson embellished and supplemented the subject appraisal report submitted to Board staff for review, from that of the original appraisal submitted to Waterstone. Work product is to be submitted to the Board in the same way it was provided to the client. Accordingly, there are material misrepresentations in the appraisal report submitted by Gibson for review.
9. It is important to note that the first appraisal report submitted by Gibson under this probation period was also subject to a staff grievance stemming from submission of an appraisal report that had been modified from what was submitted to his client. Gibson was put on notice and even responded to that grievance before submission of the current modified appraisal. That grievance was adopted by the Board as a Complaint and is now in prosecution.
10. Further, the errors identified by the reviewer in this appraisal as well as the appraisal subject to the complaint discussed above, have similar issues and problems as did the originating appraisal in Complaint #21-030, for which Gibson took corrective education. It

appears that Gibson has not learned anything from either the corrective education or through the disciplinary process. Gibson has already been subject to corrective education, a fine and probation under Board Order #20-012 and corrective education, a fine, payment of prosecutorial costs, suspension, and probation under Board Order #23-006.

AGREED CONCLUSIONS OF LAW AS TO 23-033

§ 858-723. Disciplinary Proceedings

C. The rights of any holder under a certificate as a trainee, state licensed, state certified residential or state certified general real estate appraiser may be revoked or suspended, or the holder of the certificate may be otherwise disciplined pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act, upon any of the grounds set forth in this section. The Board may investigate the actions of a trainee, state licensed, state certified residential or state certified general real estate appraiser, and may revoke or suspend the rights of a certificate holder or otherwise discipline a trainee, state licensed, state certified residential or state certified general real estate appraiser for any of the following acts or omissions:

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;*

13. *Violating any of the provisions in the code of ethics set forth in this act.*

USPAP's Ethics Rule states that *"An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics."*

The **Conduct Section** of **USPAP's Ethics Rule** states that an appraiser:

"Must not communicate assignment results with the intent to mislead or defraud;"

"Must not use or communicate a report that is known by the appraiser to be misleading or fraudulent,"

"Must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE."

USPAP's Record Keeping Rule states, in part: *"The work file must include true copies of all written reports."*

CONSENT AGREEMENT

The Respondent, by affixing his signatures hereto, acknowledges:

1. The Respondent has been advised to seek the advice of counsel prior to signing this document.
2. That Respondent possess 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 him; and
 - f) The right to obtain judicial review of the final decision of the Board.
3. The Respondent stipulates the facts as set forth above and specifically waives his rights to contest these findings in any subsequent proceedings before the Board and his rights to appeal this matter to the District Court.
4. The Respondent consents to the entry of this Order affecting his 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.
6. All other original allegations in this matter are dismissed.
7. Respondent acknowledges this will be placed on the Board's agenda for its next monthly meeting, after receipt of the executed Order from Respondent, and notice for the Order's placement on that Agenda is accepted.¹
8. This Consent Order may be executed in one or more counterparts, but all such counterparts, taken together, shall constitute only one Consent Order. When delivered to the other parties, facsimile and visual digital reproductions of original signatures shall be as effective as if they were the originals.

¹ Currently, the next Board meeting is scheduled for July 12, 2024, at 9:30 a.m.

9. This Consent Order shall be governed by the internal laws of the State of Oklahoma without regard to the conflict of law principles.

10. This Consent Order contains the entire agreement between the parties hereto and all provisions of this Consent Order are contractual and not a mere recital. The Parties acknowledge that no presentation or promise not expressly set forth in this Consent Order has been made by any of the Parties hereto or any of their agents, employees, representatives, or attorneys. No modification of, or amendment to, this Consent Order shall be valid unless it is in writing and signed by the Parties. In the event any portion of this Consent Order shall be declared illegal or unenforceable as a matter of law, the remainder of the Consent Order shall remain in full force and effect.

11. This Consent Order is intended by the Parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understanding, discussions, negotiations, and commitments (written or oral). This Consent Order may not be altered, amended, modified, supplemented, or otherwise changed, except by a writing executed by an authorized representative of each of the Parties.

12. The undersigned Respondent agrees that presentation of this Consent Order to the OREAB without the undersigned Respondent being present shall not constitute an improper *ex parte* communication between the OREAB and its counsel.

13. The Parties represent and warrant to one another that each Party has authority to enter into this binding Consent Order. The OREAB represents and warrants that the undersigned have full authority to execute this Consent Order on behalf of the OREAB and bind the OREAB to the terms set forth herein.

14. The Parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Consent Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. The Parties acknowledge that they understand the provisions of this Consent Order.

CONSENT ORDER TO BE ACCEPTED OR REJECTED BY THE BOARD

The Oklahoma Real Estate Appraiser Board will not submit this Consent Order for the Board's consideration until its agreement and execution by the Respondent. It is hereby agreed between the Parties that this Consent Order shall be presented to the Board, with recommendation

for approval of the Board, at the next scheduled meeting of the Board. The Respondent understands that the Board is free to accept or reject this Consent Order and, if rejected by the Board, it shall be regarded as null and void. Admissions by Respondent in the rejected Consent Order will not be regarded as evidence against him at the subsequent disciplinary hearing. The 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.

ORDER

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

1. Respondent agrees to accept a thirty (30) day suspension as authorized under 59 O.S. section 858-723.
2. Respondent shall take the following corrective education:
 - A) The Appraisal Foundation's: Ethics, Competency and Negligence— 4 hours;
 - B) The Appraisal Foundation's: Appraiser Self-Protection: Documentation and Recordkeeping – 4 hours.
3. Respondent agrees he will successfully complete, pass the comprehensive exams, and provide proof of completion and passing of the tests to the Board's office for the courses completed, within sixty (60) days from the date the Board approves this Consent Order. Failure to complete and pass the courses in a timely matter will result in suspension until the courses are completed and proof of completion and passing of the tests has been provided to the Board's office. Respondent understands that he will not receive continuing education credit for these courses.
4. Respondent shall pay an administrative fine in the amount of two thousand dollars (\$2,000), to be paid within thirty (30) days of notification of Respondent of the Board's Order imposing the administrative fine, pursuant to 59 O.S. §858-723, and payment of costs for legal fees in the amount of two thousand dollars (\$2,000), to be paid within thirty (30) days of notification of Respondent of the Board's Order. Failure to comply with the preceding paragraphs in a timely manner will result in an instant suspension of Respondent's licenses. For good cause,

an extension may be granted by the Board. An application for an Extension of Time should be filed at least five (5) business days in advance of the Board meeting to be placed on a Board meeting agenda in advance of the deadline to comply with this Consent Order.

DISCLOSURE

Pursuant to the Oklahoma Open records Act, 51 O.S. §24-A.1 through §24-A.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.

RESPONDENT:



JOE GIBSON

June 18, 2024

DATE



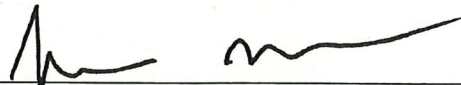
JAMES J. HODGKINS, Counsel for Respondent

June 19, 2024

DATE

CERTIFICATE OF BOARD'S 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.

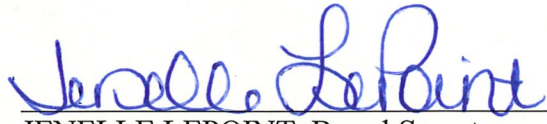


STEPHEN L. MCCALEB, OBA NO. 15649
ODOM & SPARKS, PLLC
Suite 140
HiPoint Office Building
2500 McGee Drive
Norman, OK 73072

7-9-24


DATE

IT IS SO ORDERED on this 12th day of July, 2024.



JENELLE LEPOINT, Board Secretary
Oklahoma Real Estate Appraiser Board

**OKLAHOMA REAL ESTATE
APPRAISER BOARD:**

By: 
BRYAN NEAL, OBA NO. 6590
Assistant Attorney General
Attorney for the Board
313 NE 21st St
Oklahoma City, OK 73105

CERTIFICATE OF MAILING

I, Kelly Ann Reynolds, hereby certify that on the 12th day of July 2023, a true and correct copy of the above and foregoing Consent Order was placed in the U.S. Mail, with postage pre-paid by Certified Mail to:

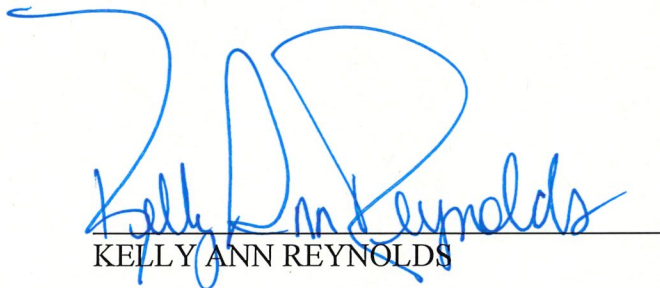
James J. Hodgens, Esq.
PO Box 686
Stroud, OK 74079

9214 8902 0982 7500 0636 07

by First Class Mail to:

Bryan Neal, Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
313 NE 21st St
Oklahoma City, OK 73105

Stephen L. McCaleb
ODOM & SPARKS, PLLC
2500 McGee Dr, Ste 140
Norman, OK 73072



KELLY ANN REYNOLDS