

**BEFORE THE ARKANSAS APPRAISER
LICENSING AND CERTIFICATION BOARD**

**IN THE MATTER OF:
Ben Boothe, Sr.**

CASE# 23-1097

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

A hearing on the above- referenced matter was held before the Arkansas Appraiser Licensing and Certification Board (“the Board”) on July 11, 2024 in the 3rd Floor Conference Room at 900 West Capitol Avenue, Little Rock, Arkansas, 72201. Respondent failed to appear and was not represented by counsel. Assistant Attorney General Aaron Lowrey appeared on behalf of the Board.

Finding proper notice had been given Respondent, the Board, from all the evidence presented, makes the following Finding of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

F-1. On or about April 25, 2023, the Board received a complaint with attached report that Respondent developed and reported an appraisal report of the property located at 2905 Arkansas Blvd, Texarkana, AR, as of April 9, 2023. (Report) The Report uses two dates as the report date. The cover page indicates April 9, 2023. On page 8 the Respondent uses April 8, 2023.

F-2. Respondent is not and was not at the time relevant hereto credentialed by this Board.

F-3. A request for a response to the complaint was sent to the Respondent on July 20, 2023, and October 10, 2023. The second request was sent both regular and certified mail. A telephone conversation with the Respondent’s office confirmed that the mailing address was correct. The Respondent did not reply to either request.

F-4. On page 114 of the Report, the Respondent states, “Restaurant sales: THIS APPROACH USING RELEVANT SALES IN TEXAS AND ARKANSAS” and then provides five comparables on pages 114-118. None of the restaurant sales used are in Arkansas. The only Arkansas comparable sale used is a multi-family property. In reviewing these sales, the underlying logic and rationale of the analysis of all five sales cannot be followed. It is also not clear if research was conducted for any comparable sales or rentals of restaurants in Arkansas.

F-5. On page 94 of the Report, the Respondent summarizes data used to estimate replacement cost. While the Report does not indicate personal property is included in the market value opinion, the Respondent includes a line-item expense estimate for “Custom art, paintings, décor, decorations.”

F-6. On page 121 of the Report, the Respondent provides an income analysis that lacks market support and may include more than the economic attributes of real property. For example, no comparable rentals were utilized to estimate potential gross income. Rather, income from business receipts were utilized to derive a net income estimate without market support. In addition, on page 128 the Respondent states, “The Income Approach to Value was not used in this appraisal, since we did not have adequate audited income and expense data to do a comprehensive income approach.” It appears on pages 121 and 122 that a value by the Income Approach was developed.

F-7. The Respondent stated on page 37 that the Report was to be a Summary Report, but later was stated on page 38 to be commensurate with a Restricted Appraisal Report.

F-8. That Respondent identified the intended use as “for the client to use the document in determining value of the subject for potential sale of the property” on page 37, but later stated as “for internal financial planning and projections for inter-company use, specifically for estate tax purposes” on page 39.

F-9. Respondent defined market value in three separate instances: two citing a common definition with the source of the OCC, FDIC, or the “Federal Home Loan Bank Board” and one citing a definition from the Comptroller of the Currency that is different than the other two definitions provided in the appraisal report. No comments were included to clearly indicate to the intended users how the definition is being applied.

F-10. Respondent states on the certification on page 144 that “Ben Boothe personally inspected the property and contributed to this report.” However, a summary of the extent of his real property appraisal assistance was not found in any part of the report.

F-11. On page 8 of the Report the Respondent states, “Mike Davis was to personally visit and evaluate the property.” Respondent named Mike Davis in the “Invoice for Services” on page 165 for providing inspection observations for the subject property, yet Davis’s assistance was not summarized in any part of the Report (nor was he named in the certification).

F-12. That Respondent stated on the certification, “The undersigned, being any parties, which sign this appraisal document or any part thereof, are signing as either officers or agents of Ben Boothe and Associates, BBAR INC., or PPA and not individually or personally. It is disclosed and understood that no person signing this document does so creating personal liability, and the client, by receiving this document does accept the document as a report of Ben Boothe and Associates, BBAR INC. as a corporate entity, and will not hold any individual who signs or is attached to this report as a consultant or Respondent, liable personally for any dispute, disagreement, omission, error, or any matter pertaining to this report.”

CONCLUSIONS OF LAW

Charge 1. *The foregoing described in paragraphs F-1 and F-2 are violations of A. C. A. § 17-14-105 (b) and (c).*

(b) An appraiser shall not sign an appraisal report or be cited within the report has having provided “significant real property appraisal assistance” in the development of the appraisal without having been state-registered, state-licensed, registered apprentice, or state-certified.

(c) An appraiser shall not perform or be employed to perform an appraisal where the property that is subject to the assignment lies within the borders of the State of Arkansas without first being state-registered, state-licensed, registered apprentice, or state-certified by the State Board of Appraisers, Abstracters, and Home Inspectors.

Charge 2. *The foregoing described in paragraph F-1 through F-12 are violations of A.C.A. §17-14-206(a)(1) and (4).*

(a)(1) Violation of any provision of the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(a)(4) Any actions demonstrating untrustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud, or unethical conduct in any dealings subject to the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

Charge 3. *The foregoing described in paragraph F-1 through F-12 are violations of A.C.A. §17-14-305(a)(1).*

(a)(1) Each state-registered appraiser, each state-licensed appraiser, each registered apprentice appraiser, and each state-certified appraiser shall comply with the Uniform Standards of Professional Appraisal Practice and code of ethics adopted by the State Board of Appraisers, Abstracters, and Home Inspectors and shall authenticate all written appraisal reports with a seal that shall indicate the registration, license, or certification number.

Charge 4. *The foregoing described in paragraph F-4 are violations of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP) SR 1-1(a), SR 1-2(h), SR 1-4 (a) and SR 2-2 (a)(x).*

Given the analyses summarized in the Report, Respondent failed to perform and report the scope of work necessary to develop credible assignment results. In addition, Respondent did not employ recognized methods and techniques, nor did he summarize the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data. The underlying logic and rationale of the analysis of all five sales used in the Sales Comparison Approach cannot be followed. Therefore, the appraisal report lacks credibility.

Charge 5. *The foregoing described in paragraph F-5 is a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP) SR1-1(a), SR 1-2(e), SR 1-2(h), SR 1-4(g), and SR 2-2(a)(x).*

The Cost Approach includes an allowance for personal property with no comments or explanation as to why.

Charge 6. *The foregoing described in paragraph F-6 is a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP), SR 1-1(a), SR 1-2(h), SR 1-4(c), and SR 2-2(a)(x).*

The Respondent states the Income Approach is not developed and includes a value by Income Approach.

Charge 7. *The foregoing described in paragraphs F-7, is a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP), SR 2-1(a), SR 2-1(b) and SR 2-2.*

Respondent did not clearly identify the type of appraisal report that was completed, as required by USPAP.

Charge 8. *The foregoing described in paragraph F-8 is a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP), SR1-2(b) and 2-2(a)(iii).*

USPAP requires that the Respondent identify the intended use of his opinions and conclusions. The Respondent identifies two different intended uses in the Report.

Charge 9. *The foregoing described in paragraph F-9 is a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP), SR 1-2(c) and 2-2(a)(vi).*

USPAP requires that the Report include the type and definition of value. The report includes two different definitions and does not reconcile how that definition is being applied.

Charge 10. *The foregoing described in paragraphs F-10 and F-11 are violations of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP), SR 2-2 (a)(ix) and SR 2-3.*

That Respondent did not include a signed certification in accordance with Standards Rule 2-3. It is not clear who inspected the subject property.

Charge 11. *The foregoing described in paragraph F-12 is a violation of Appraiser Division Rule I(F) and The Uniform Standards of Professional Appraisal Practice (USPAP) SR 2-3.*

Respondent cannot abdicate his responsibility for an appraisal certification to any other party.

Charge 12. *The foregoing described in paragraphs F-1 through F-12 are a violation of Appraiser Division Rule I(F) and the Uniform Standards of Professional Appraisal Practice (USPAP) Competency Rule, lines 298 through 300.*

Respondent did not perform competently when completing the assignment as required by USPAP.

ORDER

1. Respondent is permanently banned from conducting appraisal work in the State of Arkansas.
2. Respondent is hereby ordered to pay a \$15,000 civil penalty.

Pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-212, Respondent may petition for judicial review of this decision by filing a petition in the Circuit Court in the county in which he resides or does business or in the Circuit Court of Pulaski County within thirty (30) days after service of this order.

DATE: August 7, 2024

Respectfully,



Diana Piechocki, Director for the
State Board of Appraisers, Abstracters and
Home Inspectors

CERTIFICATE OF SERVICE

I, Diana Piechocki, Director of the State Board of Appraisers, Abstracters and Home Inspectors, do hereby certify that I have served a copy of the Findings of Fact, Conclusions of Law and Order by mailing a copy of same, U.S. Mail, postage prepaid on this 7th day of August 2024 to the following party:

Mr. Ben Boothe, Sr.
12409 San Francisco Avenue NE
Albuquerque, NM 87122


DIANA PIECHOCKI
DIRECTOR