

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 GILLIAN E. FRIEDMAN  
Deputy Attorney General  
4 State Bar No. 169207  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2564  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
**DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**  
**STATE OF CALIFORNIA**  
9

10 In the Matter of the Accusation Against:  
11 DALE DONERKIEL  
555 South Brand Boulevard  
12 San Fernando, CA 91345  
13 Certified General Appraiser License  
14 No. AG 002740

Case No. C110513-05

**A C C U S A T I O N**

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

19 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers  
20 (Complainant), brings this Accusation solely in her official capacity as Chief of Enforcement for  
21 Complainant.

22 2. On or about January 9, 1992, the Director of the Office of Real Estate Appraisers  
23 issued Certified General Appraiser License Number AG 002740 to Dale Donerkiel (Respondent).  
24 The Certified General Appraiser License was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on January 20, 2014, unless renewed.

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JURISDICTION

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3. This Accusation is brought before the Director of the Office of Real Estate Appraisers, under the authority of the following laws.

4. Business and Professions Code section 11313 states in pertinent part:

The duty of enforcing and administering provisions of the Real Estate Appraisers' Licensing and Certification Law is vested in the director. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

5. Business and Professions Code section 11314 states, in pertinent part: "The office is required to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest."

6. Business and Professions Code section 11319 states:

Notwithstanding any other provision of this code, the Uniform Standards of Professional Appraisal Practice constitute the minimum standard of conduct and performance for a licensee in any work or service performed that is addressed by those standards. If a licensee also is certified by the Board of Equalization, he or she shall follow the standards established by the Board of Equalization when fulfilling his or her responsibilities for assessment purposes.

7. Business and Professions Code section 11328 states:

To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that requires a license, that licensee, applicant, or person shall, upon the request of the director, submit copies of appraisals, or any work product which is addressed by the Uniform Standards of Professional Appraisal Practice, and all supporting documentation and data to the office. This material shall be confidential in accordance with the confidentiality provisions of the Uniform Standards of Professional Appraisal Practice.

8. California Code of Regulations, title 10, section 3701 states:

Every holder of a license under this part shall conform to and observe the

1 Uniform Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments  
2 thereto as promulgated by the Appraisal Standards Board of The Appraisal Foundation which  
3 standards are herein incorporated into these regulations by reference as if fully set forth herein.

4 9. Title 10, California Code of Regulations section 3702 states that:

5 (a) The Director finds and declares as follows:

6 (1) That the profession of real estate appraisal is vested with a fiduciary relationship of trust  
7 and confidence as to clients, lending institutions, and both public and private guarantors or  
8 insurers of funds in federally-related real estate transactions and that the qualifications of honesty,  
9 candor, integrity, and trustworthiness are directly and substantially related to and indispensable to  
10 the practice of the appraisal profession;

11 . . . . .  
12 10. California Code of Regulations, title 10, section 3705 states in pertinent part:

13 (a) Every appraisal report subject to the Uniform Standards of Professional Appraisal  
14 Practice upon final completion shall bear the signature and license number of the appraiser and of  
15 the supervising appraiser, if appropriate. The affixing of such signature and number constitute the  
16 acceptance by the appraiser and supervising appraiser of full and personal responsibility for the  
17 accuracy, content, and integrity of the appraisal under Standards Rules 1 and 2 of USPAP.

18 11. California Code of Regulations, title 10, section 3721 states:

19 (a) The Director may issue a citation, order of abatement, assess a fine or private or  
20 public reproof, suspend or revoke any license, and/or may deny the issuance or renewal of a  
21 license of any person who has:

22 . . . . .  
23 (6) Violated any provision of USPAP;

24 (7) Violated any provision of the Real Estate Appraisers' Licensing and Certification  
25 Law, Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions  
26 Code, or regulations promulgated pursuant thereto; or any provision of the Business and  
27 Professions Code applicable to applicants for or holders of licenses authorizing appraisals;

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Uniform Standards of Professional Appraisal Practice

12. USPAP Standard 1 states:

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

13. USPAP Standards Rule 1-1 states:

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

....

14. USPAP Standards Rule 1-2 states:

In developing a real property appraisal, an appraiser must:

(a) identify the client and other intended users;

....

(e) identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including:

(i) its location and physical, legal, and economic attributes;

....

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.

15. USPAP Standards Rule 1-3 states:

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

....

(b) develop an opinion of the highest and best use of the real estate.

16. USPAP Standard 2 states:

1 In reporting the results of a real property appraisal, an appraiser must communicate each  
2 analysis, opinion, and conclusion in a manner that is not misleading.

3 17. USPAP Standards Rule 2-2 states:

4 Each written real property appraisal report must be prepared under one of the following  
5 three options and prominently state which option is used: Self-Contained Appraisal Report,  
6 Summary Appraisal Report, or Restricted Use Appraisal Report.

7  
8 (b) The content of a Summary Appraisal Report must be consistent with the intended use  
9 of the appraisal, and, at a minimum;

10 (i) state the identity of the client and any intended users, by name or type;

11  
12 (iii) summarize information sufficient to identify the real estate involved in the appraisal,  
13 including the physical and economic property characteristics relevant to the assignment;

14  
15 (vii) summarize the scope of work used to develop the appraisal;

16 18. USPAP Standards Rule 2-3 states:

17 Each written real property appraisal report must contain a signed certification that is similar  
18 in content to the following form:

19 I certify that, to the best of my knowledge and belief:

20 — the statements of fact contained in this report are true and correct.

21 — the reported analyses, opinions, and conclusions are limited only by the  
22 reported assumptions and limiting conditions and are my personal, impartial, and unbiased  
23 professional analyses, opinions, and conclusions.

24 — I have no (or the specified) present or prospective interest in the property that is  
25 the subject of this report and no (or the specified) personal interest with respect to the parties  
26 involved.

27 — I have no bias with respect to the property that is the subject of this report or to  
28 the parties involved with this assignment.

1           —           my engagement in this assignment was not contingent upon developing or  
2 reporting predetermined results.

3           —           my compensation for completing this assignment is not contingent upon the  
4 development or reporting of a predetermined value or direction in value that favors the cause of  
5 the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence  
6 of a subsequent event directly related to the intended use of this appraisal.

7           —           my analyses, opinions, and conclusions were developed, and this report has  
8 been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

9           —           I have (or have not) made a personal inspection of the property that is the  
10 subject of this report. (If more than one person signs this certification, the certification must  
11 clearly specify which individuals did and which individuals did not make a personal inspection of  
12 the appraised property.)

13          —           no one provided significant real property appraisal assistance to the person  
14 signing this certification. (If there are exceptions, the name of each individual providing  
15 significant real property appraisal assistance must be stated.)

16           19.           The USPAP ETHICS RULE states:

17           To promote and preserve the public trust inherent in professional appraisal practice, an  
18 appraiser must observe the highest standards of professional ethics. This ETHICS RULE is  
19 divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The first  
20 three sections apply to all appraisal practice, and all four sections apply to appraisal practice  
21 performed under Standards 1 through 10.

22           Compliance with USPAP is required when either the service or the appraiser is obligated by  
23 law or regulation, or by agreement with the client or intended users, to comply. In addition to  
24 these requirements, an individual should comply any time that individual represents that he or she  
25 is performing the service as an appraiser.

26           An appraiser must not misrepresent his or her role when providing valuation services that  
27 are outside of appraisal practice.

28           Conduct:

1 An appraiser must perform assignments ethically and competently, in accordance with  
2 USPAP.

3 An appraiser must not engage in criminal conduct.

4 An appraiser must perform assignments with impartiality, objectivity, and independence,  
5 and without accommodation of personal interests.

6 An appraiser must not advocate the cause or interest of any party or issue.

7 An appraiser must not accept an assignment that includes the reporting of predetermined  
8 opinions and conclusions.

9 An appraiser must not communicate assignment results in a misleading or fraudulent  
10 manner. An appraiser must not use or communicate a misleading or fraudulent report or  
11 knowingly permit an employee or other person to communicate a misleading or fraudulent report.

12 An appraiser must not use or rely on unsupported conclusions relating to characteristics  
13 such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of  
14 public assistance income, handicap, or an unsupported conclusion that homogeneity of such  
15 characteristics is necessary to maximize value.

16 .....

17 20. USPAP Scope of Work Rule, states:

18 For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser  
19 must:

- 20 1. identify the problem to be solved;
- 21 2. determine and perform the scope of work necessary to develop credible assignment  
22 results; and
- 23 3. disclose the scope of work in the report.

24 An appraiser must properly identify the problem to be solved in order to determine the  
25 appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work  
26 is sufficient to produce credible assignment results.

27 Problem Identification

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1 An appraiser must gather and analyze information about those assignment elements that are  
2 necessary to properly identify the appraisal, appraisal review or appraisal consulting problem to  
3 be solved.

#### 4 Scope of Work Acceptability

5 The scope of work must include the research and analyses that are necessary to develop  
6 credible assignment results.

7 An appraiser must not allow assignment conditions to limit the scope of work to such a  
8 degree that the assignment results are not credible in the context of the intended use.

9 An appraiser must not allow the intended use of an assignment or a client's objectives to  
10 cause the assignment results to be biased.

#### 11 Disclosure Obligations

12 The report must contain sufficient information to allow intended users to understand the  
13 scope of work performed.

### 14 COST RECOVERY AND FINES

15 21. Code section 11409, subdivision (a), states:

16 Except as otherwise provided by law, any order issued in resolution of a disciplinary  
17 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that  
18 requires a license under this part, course provider, applicant for course provider accreditation, or a  
19 person who, or entity that, acts in a capacity that requires course provider accreditation found to  
20 have committed a violation or violations of statutes or regulations relating to Certified General  
21 Appraiser practice to pay a sum not to exceed the reasonable costs of investigation, enforcement,  
22 and prosecution of the case.

23 22. Code section 11316, subdivision (a) states:

24 (a) The director may assess a fine against a licensee, applicant for licensure, person who  
25 acts in a capacity that requires a license under this part, course provider, applicant for course  
26 provider accreditation, or a person who, or entity that, acts in a capacity that requires course  
27 provider accreditation for violation of this part or any regulations adopted to carry out its  
28 purposes.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading and Inaccurate Appraisal Report)**

3 23. Respondent is subject to disciplinary action under Business and Professions Code  
4 sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, section  
5 3701, for violating Regulation section 3721, subdivisions (a)(6) and (a)(7) in that on or about  
6 October 25, 2007, Respondent completed a real estate appraisal report for the improved  
7 commercial units in a strip center commonly known as 711 Foothill Boulevard Units B, C, D, &  
8 E, La Canada, California (Foothill Boulevard Property) The intended use of the report was for  
9 arbitration to calculate the value of the rent of the space. The report contained errors or  
10 omissions, in violation of the Uniform Standards of Professional Appraisal Practice as follows:

11 (a) Respondent failed to identify other intended users of his appraisal in his report. The  
12 client was identified as an intended user; however, the report should have also disclosed, as other  
13 intended users, those who were involved with the arbitration proceeding. (S.R. 1-2(a), 2-2(b)(i)  
14 and Conduct Section of the Ethics Rule);

15 (b) Respondent failed to accurately describe his scope of work and failed to complete an  
16 appropriate scope of work in his appraisal report. Specifically, Respondent did not show the  
17 existing rent schedule for the center and failed to obtain and analyze existing leases on Foothill  
18 Boulevard Property. (S.R. 1-2(h), 2-2(b)(vii) and Scope of Work Rule and Conduct Section of  
19 the Ethics Rule);

20 (c) Respondent failed to report and analyze relevant market conditions. Specifically, the  
21 appraisal report did not contain sufficient information regarding the demand and supply of  
22 commercial space in the area and failed to analyze existing vacancy rates and rent rates. (S.R. 1-  
23 1(a), 1-1(b), 1-2(e)(i), 2-2(b)(iii));

24 (d) Respondent failed to complete a highest and best use analysis on the Foothill  
25 Boulevard Property. The report failed to compare and analyze whether the best use of the space  
26 was for office use rather than for retail use and to support the conclusion of said analysis.  
27 Respondent further failed to include a discussion regarding the demand for various lease space  
28 sizes in the report. (S.R. 1-1(a), 1-1(b), 1-2(e)(i) and 1-3(b)); and

1 (e) Respondent failed to include a signed certification with his report (S.R. 2-3 and  
2 Conduct Section of the Ethics Rule).

3 **SECOND CAUSE FOR DISCIPLINE**

4 (False Statements)

5 24. Respondent is subject to disciplinary action under Business and Professions Code  
6 sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, section  
7 3701, for violating Regulation section 3702, subdivisions (a)(1) for making false statements in  
8 violation of the provisions of the Uniform Standards of Professional Appraisal Practice,  
9 California Code of Regulations and the California Business and Professions Code as follow:

10 (a) Respondent signed an arbitration oath form on or about November 4, 2007, for his  
11 participation in arbitration where he falsely stated that he had "nothing to disclose" regarding any  
12 past or present relationship with the parties to the arbitration, including a financial or professional  
13 relationship. In fact, Respondent had been retained by R.K., a party to the arbitration, to perform  
14 an appraisal of the Foothill Boulevard Property. (Conduct Section of the Ethics Rule and  
15 California Code of Regulations Sections 3702(a)(1))

16 (b) On or about May 20, 2008, Respondent was deposed in connection with the  
17 arbitration proceedings regarding the Foothill Boulevard Property. During the deposition, and  
18 while testifying under penalty of perjury, Respondent provided false testimony and made  
19 misleading statements regarding his appraisal report. (Conduct Section of the Ethics Rule and  
20 California Code of Regulations Section 3702(a)(1)).

21 (c) Respondent rendered services in a grossly dishonest manner by sending his  
22 electronic version of his appraisal to another appraiser in order to defraud a party in arbitration  
23 (Conduct Section of the Ethics Rule, California Code of Regulations section 3702(a)(1));

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Misleading and Inaccurate Appraisal Report)

26 25. Respondent is subject to disciplinary action under Business and Professions Code  
27 sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, section  
28 3701, for violating Regulation section 3721, subdivisions (a)(6) and (a)(7) in that on or about

1 May 1, 2008, Respondent completed a real estate appraisal report for the Foothill Boulevard  
2 Property. The intended use of the report was for arbitration to calculate the value of the rent of  
3 the space. The report contained errors or omissions, in violation of the Uniform Standards of  
4 Professional Appraisal Practice as follows:

5 (a) Respondent did not include sufficient information in the May 1, 2008 appraisal report  
6 of the Foothill Boulevard Property to be understood (S.R. 1-2(a) and 2-2(b)(iii)); and

7 (b) Respondent failed to include a signed certification in his May 1, 2008 appraisal report  
8 of the Foothill Boulevard Property. (S.R. 2-2, 2-3 and Conduct Section of the Ethics Rule).

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Misleading and Inaccurate Appraisal Report)

11 26. Respondent is subject to disciplinary action under Business and Professions Code  
12 sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, section  
13 3701, for violating Regulation section 3721, subdivisions (a)(6) and (a)(7) in that on or about  
14 June 24, 2008, Respondent completed an addendum real estate appraisal report for the Foothill  
15 Boulevard Property. The report contained errors and/or omissions, in violation of the Uniform  
16 Standards of Professional Appraisal Practice as follows:

17 (a) Respondent attempted to place improper limiting conditions on his appraisal report by  
18 sending a letter to his client R.K. with such representations. Said limiting conditions included a  
19 statement that Respondent will not accept responsibility for the information in his report, which is  
20 grossly irresponsible and in violation of USPAP. (Conduct Section of the Ethics Rule); and

21 (b) By the addendum to the appraisal report, and other letters and memoranda to his  
22 client R.K., Respondent made false and inconsistent statements including that the "effective date"  
23 of the appraisal report for the Foothill Boulevard Property was August 31, 2007. Respondent  
24 represented that he did not even get the assignment until months later, and that the purpose of the  
25 appraisal report was to determine the rent for the Foothill Boulevard Property after the lease  
26 expired. However, as of August 31, 2007, the lease for the Foothill Boulevard Property was still  
27 in effect (Conduct Section of the Ethics Rule and California Code of Regulations Section  
28 3702(a)(1)).

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Office of Real Estate Appraisers issue a decision:

1. Revoking or suspending Real Estate Appraiser License Number AG 002740, issued to Dale Donerkiel;
2. Ordering Dale Donerkiel to pay the Director of the Office of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;
3. Ordering Dale Donerkiel to pay the Director of the Office of Real Estate Appraisers a fine pursuant to Business and Professions Code section 11316; and
4. Taking such other and further action as deemed necessary and proper.

**Original Signed**

DATED: 1/30/13

ELIZABETH SEATERS  
Chief of Enforcement  
Office of Real Estate Appraisers  
State of California  
*Complainant*

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