

**BEFORE THE**  
**BUREAU CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS**  
**BUREAU OF REAL ESTATE APPRAISERS**  
**STATE OF CALIFORNIA**

In the Matter of the of the  
Real Estate Appraiser License of:

Dale Donerkiel,  
555 South Brand Boulevard  
San Fernando, CA 91345

Certified General Appraiser  
License No. GA 002740

Respondent.

Case No. 110513-05

OAH No. 2013040574

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on 11-27-14.

It is so ORDERED 10-27-14.

**Original Signed**

\_\_\_\_\_  
JAMES MARTIN, BUREAU CHIEF,  
BUREAU OF REAL ESTATE APPRAISERS  
DEPARTMENT OF CONSUMER AFFAIRS

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  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**BUREAU OF REAL ESTATE APPRAISERS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **DALE DONERKIEL**  
13 **555 South Brand Boulevard**  
14 **San Fernando, CA 91345**

15 Certified General Appraiser  
16 License No. GA 002740

17 Respondent.

Case No. C110513-05

OAH No. 2013040574

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers  
23 ("Complainant"), Department of Consumer Affairs, brought this action solely in her capacity as  
24 the Chief of Enforcement for Complainant, and is represented in this matter by Kamala D. Harris,  
25 Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney General.

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1 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
2 the attendance of witnesses and the production of documents; the right to reconsideration and  
3 court review of an adverse decision; and all other rights accorded by the California  
4 Administrative Procedure Act and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
6 every right set forth above.

#### 7 CULPABILITY

8 10. Respondent admits the truth of the following charges and allegations in Accusation  
9 No. C110513-05: As to the First Cause for Discipline, Paragraphs 23(c)-(e); as to the Second  
10 Cause for Discipline, Paragraph 24(a)-(b) and as to the Third Cause for Discipline, Paragraphs  
11 25(a)-(b).

12 11. As to the remaining charges, First Cause for Discipline, Paragraphs 23(a)-(b),  
13 Second Cause for Discipline, Paragraph 24(c) and Fourth Cause for Discipline paragraph 26(a)-  
14 (b) Respondent understands and agrees that the charges and allegations in Accusation No.  
15 C110513-05, if proven at a hearing, constitute cause for imposing discipline upon his Certified  
16 General Appraiser License and that Respondent hereby gives up his right to contest those charges.

17 12. Respondent agrees that his Certified General Appraiser License is subject to  
18 discipline and he agrees to be bound by the Bureau Chief's probationary terms as set forth in the  
19 Disciplinary Order below.

#### 20 CONTINGENCY

21 13. This stipulation shall be subject to approval by the Chief of the Bureau of Real Estate  
22 Appraisers. Respondent understands and agrees that counsel for Complainant and the staff of the  
23 Bureau of Real Estate Appraisers may communicate directly with the Bureau Chief and staff  
24 regarding this stipulation and settlement, without notice to or participation by Respondent or his  
25 counsel. By signing the stipulation, Respondent understands and agrees that he may not  
26 withdraw his agreement or seek to rescind the stipulation prior to the time the Bureau Chief  
27 considers and acts upon it. If the Bureau Chief fails to adopt this stipulation as its Decision and  
28 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for

1 this paragraph, it shall be inadmissible in any legal action between the parties, and the Bureau  
2 Chief shall not be disqualified from further action by having considered this matter.

3 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
4 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format  
5 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

6 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
11 writing executed by an authorized representative of each of the parties.

12 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
13 the Bureau Chief may, without further notice or formal proceeding, issue and enter the following  
14 Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Certified General Appraiser License No. AG 002740  
17 issued to Respondent Dale Donerkiel (Respondent) is revoked. However, the revocation is  
18 stayed and Respondent is placed on probation for two (2) years on the following terms and  
19 conditions.

20 1. **Actual Suspension.** License No AG 002740 issued to respondent is suspended for a  
21 period of thirty (30) consecutive days. The period of actual suspension shall commence on  
22 January 1, 2015 and continue through January 30, 2015. During the period of suspension, the  
23 respondent shall engage in no activities for which licensure as a real estate appraiser is required as  
24 described in Business and Professions Code sections 11302 and 11320.

25 2. **Obey All Laws.** Respondent shall comply with all federal, state and local laws, and  
26 conform to the minimum guidelines set forth under the Uniform Standards of Professional  
27 Appraisal Practice (USPAP), and all other laws and regulations pertaining to real estate  
28 appraisers.

1           3.    **Appraisal Log/Work Samples.** Commencing on the effective date of the Decision  
2 and Order and continuing through the period of probation, respondent shall maintain a log of all  
3 appraisals, and appraisal reviews, respondent performs on a Log of Appraisal Experience form  
4 provided by the BREa. Respondent shall submit a complete and accurate copy of the log of all  
5 appraisals, and appraisal reviews, completed each six months. Each six month log shall be  
6 submitted to the Bureau of Real Estate Appraisers within 30 days following the end of each six  
7 month period. Respondent understands that the Bureau of Real Estate Appraisers may (has the  
8 option to) select work samples for review from each submitted six month log.

9           Respondent shall complete a minimum of 12 appraisals per year. If respondent fails to  
10 complete 12 appraisals per year, probation shall be tolled pursuant to Condition entitled Tolling  
11 of Probation for Out-of-State Residence/Practice below. Periods during which probation is tolled  
12 shall not apply to reduction of the probationary period, or of any suspension.

13           4.    **Monitoring.** Respondent shall be subject to, and shall permit and cooperate with,  
14 monitoring and investigation of respondent's professional practice. Such monitoring and  
15 investigation shall be conducted by representatives of the BREa.

16           5.    **Monitoring Costs.** Respondent shall pay costs associated with monitoring each and  
17 every year of probation. Respondent shall comply with the BREa's probation compliance  
18 monitoring program. Failure to pay costs or comply with probation monitoring shall be  
19 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs  
20 incurred by the BREa in reviewing appraisals, and other monitoring, in an amount not to exceed  
21 \$250.00 per six (6) months.

22           6.    **Comply With Probation.** Respondent shall fully comply with the terms and  
23 conditions of the probation imposed by the Bureau Chief of the BREa and shall cooperate fully  
24 with representatives of the BREa in its monitoring and investigation of respondent's compliance  
25 with the terms and conditions of probation.

26           7.    **Cost Reimbursement.** Respondent shall reimburse the BREa its investigation and  
27 prosecution costs in the sum of \$10,000.00. The payment shall be made in quarterly installments  
28 with payments of not less than \$1,250.00, with the first payment due on the effective date of the

1 final Decision and Order as signed by the Bureau Chief. Payment shall be made to the Real  
2 Estate Appraisers Regulation Fund, c/o Bureau of Real Estate Appraisers, 1102 Q Street, Suite  
3 4100, Sacramento, California 95811, by check or money order and shall indicate on its face the  
4 notation: "BREA Case No. C110513-05." Respondent shall also submit a copy of the invoice  
5 with payment, which will be provided by the BREA. If full payment is not received by the  
6 BREA by the date due as noted in the invoice, a 10 percent late penalty shall be added to the  
7 unpaid balance and interest will accrue on the unpaid balance at the pooled money investment  
8 rate in effect at that time, until the full amount is paid. Respondent shall not be eligible to renew  
9 his or her license until such time as full payment of the outstanding costs have been made.  
10 Failure to reimburse the BREA's costs of its investigation and prosecution shall constitute a  
11 violation of the probationary order.

12       8.    **Active License/Registration Status.** Respondent shall at all times maintain an active  
13 license/registration status with the BREA, including during any period of suspension. If the  
14 license/registration is expired at the time the Decision and Order of the Bureau Chief of the  
15 BREA becomes effective, the license/registration must be renewed within 30 days of the effective  
16 date of the Decision and Order.

17       9.    **Tolling of Probation For Out-of-State Residence/Practice.** In the event respondent  
18 should leave California to reside or practice outside this state, respondent must notify the BREA,  
19 in writing, of the dates of departure and return. Periods of non-California residency or practice  
20 outside the state shall not apply to reduction of the probationary period, or of any suspension. No  
21 obligation imposed herein, including requirements to file written reports, reimburse the BREA's  
22 costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods  
23 of out-of-state residency or practice except at the written direction of the BREA. Respondent  
24 must provide written notice to the BREA within 10 days of any change of residency or practice  
25 outside the state, and within 30 days prior to re-establishing residency or returning to practice in  
26 this state.

27       10.   **Minimum Education Requirements.** Educational courses imposed as a term or  
28 condition of probation by the Bureau Chief of the BREA may not be credited toward respondent's

1 continuing education requirements required for renewal of respondent's real estate appraiser  
2 license.

3 **11. Automatic Suspension.** Failure to comply with the education requirements as  
4 contained in this Disciplinary Order shall result in an automatic suspension of Respondent's real  
5 estate appraiser license.

6 **12. Violation of Probation.** If respondent violates probation in any respect, the Bureau  
7 Chief of the BREAA, after giving respondent notice and an opportunity to be heard, may revoke  
8 probation and carry out the disciplinary order that was stayed. If an accusation or a petition to  
9 revoke probation is filed against respondent during probation, the Bureau Chief shall have  
10 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
11 the matter is final.

12 **13. Completion of Probation.** Notwithstanding the continued effects of the published  
13 discipline, upon successful completion of probation, respondent's license will be fully restored.

14 **14. Surrender of License:** During respondent's term of probation, if he or she ceases  
15 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
16 probation, respondent may surrender his or her license to the BREAA. The BREAA reserves the right  
17 to evaluate respondent's request and to exercise its discretion whether to grant the request, or to  
18 take any other action deemed appropriate and reasonable under the circumstances, without further  
19 hearing. Upon formal acceptance of the tendered license, respondent will no longer be subject to  
20 the conditions of probation.

21 Surrender of respondent's license shall be considered a disciplinary action and shall become  
22 a part of respondent's license history with the BREAA. An appraiser whose license has been  
23 surrendered may re-apply for licensure no sooner than one year from the effective date of the  
24 disciplinary decision.

25 Respondent may petition to BREAA for reinstatement pursuant to the provisions set forth in  
26 Government Code section 11522. If, following a surrender of his or her license, Respondent ever  
27 applies for licensure to the BREAA and/or petitions for reinstatement in the State of California, the  
28 Bureau Chief shall treat it as a new application for licensure. Respondent must comply with all

1 the laws, regulations and procedures for licensure in effect at the time the application or petition  
2 is filed, and all of the charges and allegations contained in the Accusation or Statement of Issues  
3 will be deemed true when the Bureau Chief determines whether to grant or deny the application  
4 or petition. Further, Respondent shall pay the enforcement costs, fine and complete the  
5 education, as specified in this Decision and Disciplinary Order prior to filing any application for  
6 reinstatement or issuance of a new license.

7 **15. Uniform Standards of Professional Appraisal Practice Course /Examination.**

8 Respondent shall take and pass a BREa approved 15-hour basic education course on the Uniform  
9 Standards of Professional Appraisal Practice within 6 months of the effective date the Decision  
10 and Order of the Bureau Chief of the BREa. The course must be The Appraisal Foundation's  
11 National USPAP Course (or its equivalent as determined solely by the Appraiser Qualifications  
12 Board (AQB) Course Approval Program), and must be taught by an AQB Certified USPAP  
13 Instructor who is also a Certified Residential or Certified General appraiser in good standing with  
14 the BREa. The course must administer a closed-book final examination. Respondent must  
15 submit proof of successful completion of the course and final examination within 6 months  
16 following the effective date of the Decision and Order of the Bureau Chief of the BREa.  
17 Respondent understands that it is his/her responsibility to ensure that the course meets all of the  
18 requirements listed above and to make all necessary and preparatory arrangements to take the  
19 course.

20 **16. Payment of Fine.** Respondent shall pay a fine pursuant to Business and Professions  
21 Code section 11316(a) and California Code of Regulations, title 10, section 3721(a), in the sum of  
22 \$10,000.00. The payment shall be made in quarterly installments with payments of not less than  
23 \$1,250.00, with the first payment due on the effective date of the final Decision and Order as  
24 signed by the Bureau Chief. Payment shall be made to the Real Estate Appraisers Regulation  
25 Fund, c/o Bureau of Real Estate Appraisers, 1102 Q Street, Suite 4100, Sacramento, California  
26 95811, by check or money order and shall indicate on its face the notation: "BREa Case No.  
27 C110513-05." Respondent shall also submit a copy of the invoice with payment, which will be  
28 provided by the BREa. If full payment is not received by the BREa by the date due as noted in

1 the invoice, a 10 percent late penalty shall be added to the unpaid balance and interest will accrue  
2 on the unpaid balance at the pooled money investment rate in effect at that time, until the full  
3 amount is paid. Respondent shall not be eligible to renew his or her license until such time as full  
4 payment of the outstanding fine has been made. Failure to make payment on the fine shall  
5 constitute a violation of the probationary order.

6 **ACCEPTANCE**

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, Todd F. Stevens, Esq. I understand the stipulation and the effect it  
9 will have on my Certified General Appraiser License. I enter into this Stipulated Settlement and  
10 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
11 Decision and Order of the Chief of the Bureau of Real Estate Appraisers, Department of  
12 Consumer Affairs.

13  
14 **Original Signed**

15 DATED: 10/23/2014

16 DALE DONERKIEL  
17 Respondent

18  
19 I have read and fully discussed with Respondent Dale Donerkiel the terms and conditions  
20 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
21 its form and content.

22 DATED: 10/23/14

23 **Original Signed**  
TODD F. STEVENS, Esq.  
24 Attorney for Respondent

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**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs

Dated: 10/22/14

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General

**Original Signed**

GILLIAN E. FRIEDMAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. C110513-05**

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*

7  
8 **BEFORE THE**  
**DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:  
11 DALE DONERKIEL  
12 555 South Brand Boulevard  
San Fernando, CA 91345

Case No. C110513-05

13 Certified General Appraiser License  
14 No. AG 002740

**ACCUSATION**

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

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

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

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

13       6.    Business and Professions Code section 11319 states:

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

19       7.    Business and Professions Code section 11328 states:

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

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

28       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

28

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.

**FIRST CAUSE FOR DISCIPLINE**

**(Misleading and Inaccurate Appraisal Report)**

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

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

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

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

(d) Respondent failed to complete a highest and best use analysis on the Foothill Boulevard Property. The report failed to compare and analyze whether the best use of the space was for office use rather than for retail use and to support the conclusion of said analysis. Respondent further failed to include a discussion regarding the demand for various lease space 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.

DATED: 1/30/13

**Original Signed**

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

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