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

In the Matter of the Accusation Against:

Case No. C120110-0

**BRETON E. VAN SLOTEN
1404 W. Bellwood Drive
Spokane, WA 99218
Real Estate Appraiser License No.
AR007966**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 29, 2013, Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Bureau of Real Estate Appraisers (Complainant), filed Accusation No. C120110-0 against Breton E. Van Sloten (Respondent) before the Bureau of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about January 23, 2012, the Bureau of Real Estate Appraisers (Bureau) (formerly the Bureau of Real Estate Appraisers) issued Real Estate Appraiser License No. AR007966 to Respondent. The Real Estate Appraiser License was in full force and effect at all times relevant to the charges brought in Accusation No. C120110-0 and expired on January 22, 2014. This lapse in licensure, however, pursuant to Business and Professions Code section

1 118(b) and 11315.3 does not deprive the department of its authority to institute or continue this
2 disciplinary proceeding.

3 3. On or about July 30, 2013, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. C120110-0, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of
7 Regulations, section 3527, is required to be reported and maintained with the Bureau.

8 Respondent's address of record was and is:

9 1404 W. Bellwood Drive
10 Spokane, WA 99218.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about August 10, 2013, Respondent signed and returned a Notice of Defense,
15 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
16 address of record and it informed him that an administrative hearing in this matter was scheduled
17 for February 4, 2014. Respondent failed to appear at that hearing.

18 6. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense, and the notice shall be deemed a specific denial of all parts
21 of the accusation not expressly admitted. Failure to file a notice of defense shall
22 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
23 may nevertheless grant a hearing.

24 7. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

8. Pursuant to its authority under Government Code section 11520, the Bureau finds
Respondent is in default. The Bureau will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Bureau's offices regarding the allegations contained in Accusation No. C120110-0,
3 finds that the charges and allegations in Accusation No. C120110-0, are separately and severally,
4 found to be true and correct by clear and convincing evidence.

5 9. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 11409, it is hereby determined that the reasonable costs for
7 Investigation and Enforcement is \$18,896.46 as of February 3, 2014.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Breton E. Van Sloten has
10 subjected his Real Estate Appraiser License No. AR007966 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Bureau of Real Estate Appraisers is authorized to revoke Respondent's Real
13 Estate Appraiser License based upon the following violations alleged in the Accusation which are
14 supported by the evidence contained in the Default Decision Evidence Packet in this case.:

15 4. Respondent is subject to disciplinary action under California Code of Regulations,
16 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,
17 section 3701 and Business and Professions Code section 11319 in that Respondent violated
18 USPAP. The circumstances are as follows:

19 5. On or about July 29, 2011, Respondent completed a real estate appraisal report for a
20 property located at 4309 San Gabriel River Parkway, Pico Rivera, California ("San Gabriel
21 subject"). The report contains certain errors or omissions which are violations of the provisions of
22 the USPAP. The violations are as follows:

23 a. Respondent falsely stated property values were stable, whereas property values
24 were declining. Respondent also stated the demand/supply was in balance, whereas there was an
25 oversupply. Respondent's actions violated USPAP Standard Rules 1-2(e)(i), 1-3(a), and 2-
26 2(b)(iii).

1 b. Respondent failed to disclose and analyze the fact that the San Gabriel subject
2 property was located across the street from a waste disposal and recycling center in violation
3 USPAP Standard Rules 1-2(e)(i) and 2-2(b)(iii).

4 c. Respondent failed to adequately discuss and analyze the San Gabriel subject's
5 family room addition. Respondent failed to adequately discuss and analyze the quality of
6 construction, condition, heating, electrical and conformity to the original structure in violation of
7 USPAP Standard Rules 1-2(e)(i) and 2-2(b)(iii).

8 d. Respondent created a misleading report by failing to collect, verify, and analyze all
9 information necessary for credible assignment results via the Sales Comparison Approach.
10 Specifically, Respondent failed to disclose and analyze the San Gabriel subject's proximity to the
11 waste disposal and recycling center while at the same time applying unsupported across the board
12 downward adjustments for the San Gabriel subject's arterial location. Respondent failed to
13 address the sale of a property located just two sites from the San Gabriel subject property. That
14 property was also impacted by the waste disposal and recycling center but not disclosed in the
15 report. Additionally, Respondent failed to adequately discuss and analyze relevant time
16 adjustments. Respondent's actions violated USPAP Standard Rules S.R. 1-4(a) and 2-2(b)(viii).

17 e. Based upon the findings noted in above items a, b, c, and d, Respondent failed to
18 correctly employ those recognized methods and techniques that are necessary to produce a
19 credible appraisal in violation of USPAP Standard Rule S.R. 1-1(a).

20 f. Based upon the findings noted in above items a, b, c, and d, Respondent
21 committed substantial errors of omission or commission that significantly affected the appraisal
22 in violation of USPAP Standard Rule 1-1(b).

23 g. Based on the findings noted in above items a, b, c, and d, Respondent failed to
24 clearly and accurately set forth the appraisal in a manner that would not be misleading in
25 violation of USPAP Standard Rule 2-1(a).

26 h. Based on the findings noted in above items a, b, c, and d, Respondent failed to
27 provide sufficient information to enable the intended users of the report to understand it properly
28 in violation of USPAP Standard Rule 2-1(b).

1 i. Based on the findings noted in above items a, b, c, and d, in addition to an
2 appraisal report that was not credible, Respondent violated the USPAP Conduct section of the
3 Ethic Rule.

4 6. Respondent is subject to disciplinary action under California Code of Regulations,
5 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,
6 section 3701 and Business and Professions Code section 11319 in that Respondent violated
7 USPAP. On or about April 14, 2010, Respondent completed a real estate appraisal report for a
8 property located at 1305-1307 W. 56th Street, Los Angeles, California (“W. 56th subject”). The
9 report contains certain errors or omissions which are violations of the provisions of the USPAP.
10 The violations are as follows:

11 a) Respondent created a misleading report by failing to collect, verify, analyze and
12 report all information necessary for credible assignment results via the Sales Comparison
13 Approach. Specifically, Respondent reported false sources for the rental data. Additionally,
14 Respondent failed to adequately discuss and support relevant time adjustments. Respondent’s
15 actions violated USPAP Standards Rules 1-4(a) and 2-2(b)(viii).

16 b) Respondent utilized false rental data and an unsupported gross rent multiplier, which
17 invalidated the Income Approach. Respondent’s actions violated USPAP Standards Rules 1-
18 4(c)(i)(iii)(iv) and 2-2(b)(viii).

19 c) Respondent failed to adequately disclose and analyze the W. 56th subject’s listing
20 history and sale price, which was \$20,000 above the list price and \$83,000 above a prior sale
21 price of the subject property that occurred one month earlier. Respondent’s actions violated of
22 USPAP Standards Rules 1-5(a) and 2-2(b)(viii).

23 d) Respondent failed to adequately disclose and analyze all prior sales and transfer of
24 the W. 56th subject property that occurred during the prior three years, including a Fannie Mae
25 foreclosure, in violation of USPAP Standards Rules 1-5(b) and 2-2(b)(viii).

26 e) Based upon the findings noted in above items a, b, c, and d, Respondent failed to
27 correctly employ those recognized methods and techniques that are necessary to produce a
28 credible appraisal in violation of USPAP Standards Rule 1-1(a).

1 f) Based upon the findings noted in above items a, b, c, and d, Respondent committed
2 substantial errors of omission and/or commission that significantly affected the appraisal in
3 violation of USPAP Standards Rule 1-1(b).

4 g) Based on the findings noted in above items a, b, c, and d, in addition to providing a
5 false address for the W. 56th subject property, Respondent failed to clearly and accurately set
6 forth the appraisal in a manner that would not be misleading in violation of USPAP Standards
7 Rules 2-1(a).

8 h) Based on the findings noted in above items a, b, c, and d, Respondent failed to
9 provide sufficient information to enable the intended users of the report to understand it properly
10 in violation of USPAP Standards Rule 2-1(b).

11 i) Based on the findings noted in above items a, b, c, and d, in addition to an appraisal
12 that was not credible, Respondent violated the USPAP Conduct section of the Ethics Rule.

13 7. Respondent is subject to disciplinary action under California Code of Regulations,
14 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,
15 section 3701 and Business and Professions Code section 11319 in that Respondent violated
16 USPAP. On or about September 12, 2010, Respondent completed a real estate appraisal report
17 for a property located at located 746 S. Los Angeles Street, Unit 102, Los Angeles, California
18 (“S. Los Angeles subject”). The report contains certain errors or omissions which are violations
19 of the provisions of the USPAP. The violations are as follows:

20 a) Respondent falsely described the subject’s location as suburban in the Neighborhood
21 Characteristics section of the report, whereas the subject was located in an urban location in
22 violation of USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

23 b) Respondent falsely stated property values were stable, whereas property values were
24 declining. Respondent also stated the demand/supply was in balance, whereas there was an
25 oversupply. Respondent actions violated USPAP Standards Rules 1-2(e)(i), 1-3(a), and 2-
26 2(b)(iii).

27 c) Respondent failed to adequately discuss and analyze the subject’s development and
28 the lack of sales activity. Respondent also falsely stated the number of units that were completed

1 and sold, in addition to the number of units available for sale. Respondent's actions violated
2 USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

3 d) Respondent falsely stated the S. Los Angeles subject had one bedroom and a one car
4 garage in violation of USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

5 e) Respondent created a misleading report by failing to collect, verify, and analyze all
6 information necessary for credible assignment results via the Sales Comparison Approach.
7 Specifically, Respondent failed to appropriately discuss and analyze the S. Los Angeles subject's
8 ground floor location, including retail and pedestrian influence and underground parking
9 influence, in comparison to the varying upper floor locations and views of the comparable sales
10 used. Respondent falsely stated the days on market for Comparable Sale One. Respondent also
11 failed to discuss and analyze relevant time adjustments. Additionally, Respondent falsely stated
12 Comparable Sale Five was an active listing, whereas this listing had expired approximately
13 seventeen months prior to his date of report. Respondent's actions violated USPAP Standards
14 Rules 1-4(a) and 2-2(b)(viii).

15 f) Respondent failed to adequately discuss and analyze the inventory of unsold units and
16 the lack of recent comparable sales within the S. Los Angeles subject's development in violation
17 of USPAP Standards Rules 1-4(a) and 2-2(b)(viii).

18 g) Respondent failed to adequately discuss and analyze why his concluded value was
19 29% (\$46,000) above Comparable Sale Four, which was an active listing within the S. Los
20 Angeles subject's development. Additionally, Respondent falsely stated the active listings, one of
21 which was expired, supported his estimated market value. Respondent's actions violated USPAP
22 Standards Rules 1-4(a), 1-6(a), and 2-2(b)(viii).

23 h) Respondent disclosed, but failed to adequately discuss and analyze the S. Los
24 Angeles subject's prior sale, which occurred within the past three years for approximately 39%
25 more than his concluded value. Respondent's actions violated USPAP Standards Rules 1-5(b)
26 and 2-2(b)(viii).

1 i) Based upon the findings noted in above items a, b, c, d, e, f, g, and h, Respondent
2 failed to correctly employ those recognized methods and techniques that are necessary to produce
3 a credible appraisal in violation of USPAP Standards Rule 1-1(a).

4 j) Based upon the findings noted in above items b, c, d, e, f, g, and h, Respondent
5 committed substantial errors of omission or commission that significantly affected the appraisal
6 in violation of USPAP Standards Rule 1-1(b).

7 k) Based on the findings noted in above items a, b, c, d, e, f, g, and h, Respondent failed
8 to clearly and accurately set forth the appraisal in a manner that would not be misleading in
9 violation of USPAP Standards Rule 2-1(a).

10 l) Based on the findings noted in above items a, b, c, d, e, f, g and h, Respondent failed
11 to provide sufficient information to enable the intended users of the report to understand it
12 properly in violation of USPAP Standards Rule 2-1(b).

13 m) Based on the findings noted in above items a, b, c, d, e, f, g, and h, in addition to an
14 appraisal report that was not credible, Respondent violated the USPAP Conduct section of the
15 Ethic Rule.

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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF REAL ESTATE APPRAISERS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. C120110-01

12 **BRETON E. VAN SLOTEN**
13 **1404 W. Bellwood Drive**
Spokane, WA 99218

ACCUSATION

14 **Real Estate Appraiser License No.**
15 **AR007966**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 23, 1992, the Director of the Office of Real Estate Appraisers
24 (currently the Bureau of Real Estate Appraisers) issued Real Estate Appraiser License Number
25 AR007966 to Breton Van Sloten (Respondent). The Real Estate Appraiser License was in full
26 force and effect at all times relevant to the charges brought herein and will expire on January 22,
27 2014, unless renewed.

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Chief of the Bureau of Real Estate Appraisers
3 (Chief), under the authority of the following laws. All section references are to the Business and
4 Professions Code unless otherwise indicated.

5 4. Business and Professions Code section 11301 states:

6 "(a) There is hereby created within the Department of Consumer Affairs a Bureau of Real
7 Estate Appraisers to administer and enforce this part.

8 (b) Whenever the term "Office of Real Estate Appraisers" appears in any other law, it
9 means the "Bureau of Real Estate Appraisers."

10 5. Business and Professions Code section 11313 states, in pertinent part:

11 "The bureau [of real estate appraisers] is under the supervision and control of the Director
12 of Consumer Affairs. The duty of enforcing and administering this part is vested in the chief, and
13 he or she is responsible to the Director of Consumer Affairs therefor. The chief shall adopt and
14 enforce rules and regulations as are determined reasonably necessary to carry out the purposes of
15 this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with
16 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted
17 by the former Director of the Office of Real Estate Appraisers shall continue to apply to the
18 bureau and its licensees."

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

22 7. Business and Professions Code section 11316, subdivision (a) states:

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

28 ///

1 8. Business and Professions Code section 11319 states:

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

7 9. Business and Professions Code section 11315.3 states:

8 "The suspension, expiration, or forfeiture by operation of law of a license or certificate of
9 registration issued by the office, or its suspension, forfeiture, or cancellation by order of the office
10 or by order of a court of law, or its surrender without the written consent of the office, shall not,
11 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the office
12 of its authority to institute or continue a disciplinary proceeding against the licensee or registrant
13 upon any ground provided by law or to enter an order suspending or revoking the license or
14 certificate of registration, or otherwise taking disciplinary action against the licensee or registrant
15 on any such ground."

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

17 "Every holder of a license under this part shall conform to and observe the Uniform
18 Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto
19 as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards
20 are herein incorporated into these regulations by reference as if fully set forth herein."

21 11. California Code of Regulations, title 10, section 3702 states:

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

27
28

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

4 15. USPAP Standards Rule 1-1, states:

5 In developing a real property appraisal, an appraiser must:

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

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

10 and

11 (c) not render appraisal services in a careless or negligent manner, such as by making
12 a series of errors that, although individually might not significantly affect the results of an
13 appraisal, in the aggregate affects the credibility of those results.

14 16. USPAP Standards Rule 1-2, states:

15 In developing a real property appraisal, an appraiser must:

16 (a) identify the client and other intended users; [footnote omitted]

17 (b) identify the intended use of the appraiser's opinions and conclusions; [footnote
18 omitted]

19 (c) identify the type and definition of value, and, if the value opinion to be developed
20 is market value, ascertain whether the value is to be the most probable price:

21 (i) in terms of cash; or

22 (ii) in terms of financial arrangements equivalent to cash; or

23 (iii) in other precisely defined terms; and

24 (iv) if the opinion of value is to be based on non-market financing or financing with
25 unusual conditions or incentives, the terms of such financing must be clearly identified and the
26 appraiser's opinion of their contributions to or negative influence on value must be developed by
27 analysis of relevant market data;

28

1 (d) identify the effective date of the appraiser's opinions and conclusions; [footnote
2 omitted]

3 (e) identify the characteristics of the property that are relevant to the type and
4 definition of value and intended use of the appraisal, [footnote omitted] including:

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

6 (ii) the real property interest to be valued;

7 (iii) any personal property, trade fixtures, or intangible items that are not real property
8 but are included in the appraisal;

9 (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants,
10 contracts, declarations, special assessments, ordinances, or other items of a similar nature; and

11 (v) whether the subject property is a fractional interest, physical segment, or partial
12 holding;

13 (f) identify any extraordinary assumptions necessary in the assignment;

14 (g) identify any hypothetical conditions necessary in the assignment; and

15 (h) determine the scope of work necessary to produce credible assignment results in
16 accordance with the SCOPE OF WORK RULE. [footnote omitted]

17 17. USPAP Standards Rule 1-3, states

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

20 (a) identify and analyze the effect on use and value of existing land use regulations,
21 reasonably probable modifications of such land use regulations, economic supply and demand,
22 the physical adaptability of the real estate, and market area trends; and

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

24 18. USPAP Standards Rule 1-4, states

25 In developing a real property appraisal, an appraiser must collect, verify, and analyze all
26 information necessary for credible assignment results.

27 (a) When a sales comparison approach is necessary for credible assignment results, an
28 appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

1 (b) When a cost approach is necessary for credible assignment results, an appraiser
2 must:

3 (i) develop an opinion of site value by an appropriate appraisal method or technique;

4 (ii) analyze such comparable cost data as are available to estimate the cost new of the
5 improvements (if any); and

6 (iii) analyze such comparable data as are available to estimate the difference between
7 the cost new and the present worth of the improvements (accrued depreciation).

8 (c) When an income approach is necessary for credible assignment results, an
9 appraiser must:

10 (i) analyze such comparable rental data as are available and/or the potential earnings
11 capacity of the property to estimate the gross income potential of the property;

12 (ii) analyze such comparable operating expense data as are available to estimate
13 the operating expenses of the property;

14 (iii) analyze such comparable data as are available to estimate rates of capitalization
15 and/or rates of discount; and

16 (iv) base projections of future rent and/or income potential and expenses on reasonably
17 clear and appropriate evidence. [footnote omitted]

18 (d) When developing an opinion of the value of a leased fee estate or a leasehold
19 estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the
20 lease(s).

21 (e) When analyzing the assemblage of the various estates or component parts of a
22 property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser
23 must refrain from valuing the whole solely by adding together the individual values of the various
24 estates or component parts.

25 (f) When analyzing anticipated public or private improvements, located on or off the
26 site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the
27 extent they are reflected in market actions.

28

1 (g) When personal property, trade fixtures, or intangible items are included in the
2 appraisal, the appraiser must analyze the effect on value of such non-real property items.

3 19. USPAP Standards Rule 1-5, states:

4 When the value opinion to be developed is market value, an appraiser must, if such
5 information is available to the appraiser in the normal course of business: [footnote omitted]

6 (a) analyze all agreements of sale, options, and listings of the subject property current
7 as of the effective date of the appraisal; and

8 (b) analyze all sales of the subject property that occurred within the three (3) years
9 prior to the effective date of the appraisal. [footnote omitted]

10 20. USPAP Standards Rule 1-6, states:

11 In developing a real property appraisal, an appraiser must:

12 (a) reconcile the quality and quantity of data available and analyzed within the
13 approaches used;

14 and

15 (b) reconcile the applicability and relevance of the approaches, methods and
16 techniques used to arrive at the value conclusion(s).

17 21. USPAP Standards Rule 2, states:

18 In reporting the results of a real property appraisal, an appraiser must communicate each
19 analysis, opinion, and conclusion in a manner that is not misleading. [footnote omitted]

20 22. USPAP Standards Rule 2-1, states:

21 Each written or oral real property appraisal report must:

22 (a) clearly and accurately set forth the appraisal in a manner that will not be
23 misleading;

24 (b) contain sufficient information to enable the intended users of the appraisal to
25 understand the report properly; and

26 (c) clearly and accurately disclose all assumptions, extraordinary assumptions,
27 hypothetical conditions, and limiting conditions used in the assignment.

28 23. USPAP Standards Rule 2-2, states:

1 Each written real property appraisal report must be prepared under one of the following
2 three options and prominently state which option is used: Self-Contained Appraisal Report,
3 Summary Appraisal Report, or Restricted Use Appraisal Report. [footnote omitted]

4 (a) The content of a Self-Contained Appraisal Report must be consistent with the
5 intended use of the appraisal and, at a minimum:

6 (i) state the identity of the client and any intended users, by name or type; [footnote
7 omitted]

8 (ii) state the intended use of the appraisal; [footnote omitted]

9 (iii) describe information sufficient to identify the real estate involved in the appraisal,
10 including the physical and economic property characteristics relevant to the
11 assignment; [footnote omitted]

12 (iv) state the real property interest appraised;

13 (v) state the type and definition of value and cite the source of the definition;

14 (vi) state the effective date of the appraisal and the date of the report; [footnote
15 omitted]

16 (vii) describe the scope of work used to develop the appraisal; [footnote omitted]

17 (viii) describe the information analyzed, the appraisal methods and techniques
18 employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of
19 the sales comparison approach, cost approach, or income approach must be explained;

20 (ix) state the use of the real estate existing as of the date of value and the use of the real
21 estate reflected in the appraisal; and, when an opinion of highest and best use was developed by
22 the appraiser, describe the support and rationale for that opinion;

23 (x) clearly and conspicuously:

24 state all extraordinary assumptions and hypothetical conditions; and

25 state that their use might have affected the assignment results; and

26 (xi) include a signed certification in accordance with Standards Rule 2-3.

27 (b) The content of a Summary Appraisal Report must be consistent with the intended
28 use of the appraisal and, at a minimum:

- 1 (i) state the identity of the client and any intended users, by name or type; [footnote
2 omitted]
- 3 (ii) state the intended use of the appraisal; [footnote omitted]
- 4 (iii) summarize information sufficient to identify the real estate involved in the
5 appraisal, including the physical and economic property characteristics relevant to the
6 assignment; [footnote omitted]
- 7 (iv) state the real property interest appraised;
- 8 (v) state the type and definition of value and cite the source of the definition;
- 9 (vi) state the effective date of the appraisal and the date of the report; [footnote
10 omitted]
- 11 (vii) summarize the scope of work used to develop the appraisal; [footnote omitted]
- 12 (viii) summarize the information analyzed, the appraisal methods and techniques
13 employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of
14 the sales comparison approach, cost approach, or income approach must be explained;
- 15 (ix) state the use of the real estate existing as of the date of value and the use of the real
16 estate reflected in the appraisal; and, when an opinion of highest and best use was developed by
17 the appraiser, summarize the support and rationale for that opinion;
- 18 (x) clearly and conspicuously:
19 state all extraordinary assumptions and hypothetical conditions; and
20 state that their use might have affected the assignment results; and
- 21 (xi) include a signed certification in accordance with Standards Rule 2-3.
- 22 (c) The content of a Restricted Use Appraisal Report must be consistent with the
23 intended use of the appraisal and, at a minimum:
- 24 (i) state the identity of the client, by name or type; [footnote omitted] and state a
25 prominent use restriction that limits use of the report to the client and warns that the appraiser's
26 opinions and conclusions set forth in the report may not be understood properly without
27 additional information in the appraiser's workfile;
- 28 (ii) state the intended use of the appraisal; [footnote omitted]

- 1 (iii) state information sufficient to identify the real estate involved in the appraisal;
2 [footnote omitted]
- 3 (iv) state the real property interest appraised;
- 4 (v) state the type of value, and cite the source of its definition; [footnote omitted]
- 5 (vi) state the effective date of the appraisal and the date of the report; [footnote
6 omitted]
- 7 (vii) state the scope of work used to develop the appraisal; [footnote omitted]
- 8 (viii) state the appraisal methods and techniques employed, state the value opinion(s)
9 and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison
10 approach, cost approach, or income approach must be explained;
- 11 (ix) state the use of the real estate existing as of the date of value and the use of the real
12 estate reflected in the appraisal; and, when an opinion of highest and best use was developed by
13 the appraiser, state that opinion;
- 14 (x) clearly and conspicuously:
15 state all extraordinary assumptions and hypothetical conditions; and
16 state that their use might have affected the assignment results; and
- 17 (xi) include a signed certification in accordance with Standards Rule 2-3.

18 24. USPAP Ethics Rule, states:
19 An appraiser must promote and preserve the public trust inherent in appraisal practice by
20 observing the highest standards of professional ethics.

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

25 Conduct:

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

28 An appraiser:

- 1 • must not perform an assignment with bias;
- 2 • must not advocate the cause or interest of any party or issue;
- 3 • must not accept an assignment that includes the reporting of predetermined
- 4 opinions and conclusions;
- 5 • must not misrepresent his or her role when providing valuation services that are
- 6 outside of appraisal practice;
- 7 • must not communicate assignment results with the intent to mislead or to defraud;
- 8 • must not use or communicate a report that is known by the appraiser to be
- 9 misleading or fraudulent;
- 10 • must not knowingly permit an employee or other person to communicate a
- 11 misleading or fraudulent report;
- 12 • must not use or rely on unsupported conclusions relating to characteristics such
- 13 as race, color, religion, national origin, gender, marital status, familial status, age,
- 14 receipt of public assistance income, handicap, or an unsupported conclusion that
- 15 homogeneity of such characteristics is necessary to maximize value;
- 16 • must not engage in criminal conduct; and
- 17 • must not perform an assignment in a grossly negligent manner.

18 If known prior to accepting an assignment, and/or if discovered at any time during the
 19 assignment, an appraiser must disclose to the client, and in the subsequent report certification:

- 20 • any current or prospective interest in the subject property or parties involved; and
- 21 • any services regarding the subject property performed by the appraiser within the
- 22 three year period immediately preceding acceptance of the assignment, as an
- 23 appraiser or in any other capacity.

24 . . . ”

25 FIRST CAUSE FOR DISCIPLINE

26 (USPAP Violations)

27 25. Respondent is subject to disciplinary action under California Code of Regulations,
 28 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,

1 section 3701 and Business and Professions Code section 11319 in that Respondent violated
2 USPAP. The circumstances are as follows:

3 26. On or about July 29, 2011, Respondent completed a real estate appraisal report for a
4 property located at 4309 San Gabriel River Parkway, Pico Rivera, California ("San Gabriel
5 subject"). The report contains certain errors or omissions which are violations of the provisions of
6 the USPAP. The violations are as follows:

7 a. Respondent falsely stated property values were stable, whereas property values
8 were declining. Respondent also stated the demand/supply was in balance, whereas there was an
9 oversupply. Respondent's actions violated USPAP Standard Rules 1-2(e)(i), 1-3(a), and 2-
10 2(b)(iii).

11 b. Respondent failed to disclose and analyze the fact that the San Gabriel subject
12 property was located across the street from a waste disposal and recycling center in violation
13 USPAP Standard Rules 1-2(e)(i) and 2-2(b)(iii).

14 c. Respondent failed to adequately discuss and analyze the San Gabriel subject's
15 family room addition. Respondent failed to adequately discuss and analyze the quality of
16 construction, condition, heating, electrical and conformity to the original structure in violation of
17 USPAP Standard Rules 1-2(e)(i) and 2-2(b)(iii).

18 d. Respondent created a misleading report by failing to collect, verify, and analyze all
19 information necessary for credible assignment results via the Sales Comparison Approach.
20 Specifically, Respondent failed to disclose and analyze the San Gabriel subject's proximity to the
21 waste disposal and recycling center while at the same time applying unsupported across the board
22 downward adjustments for the San Gabriel subject's arterial location. Respondent failed to
23 address the sale of a property located just two sites from the San Gabriel subject property. That
24 property was also impacted by the waste disposal and recycling center but not disclosed in the
25 report. Additionally, Respondent failed to adequately discuss and analyze relevant time
26 adjustments. Respondent's actions violated USPAP Standard Rules S.R. 1-4(a) and 2-2(b)(viii).

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1 e. Based upon the findings noted in above items a, b, c, and d, Respondent failed to
2 correctly employ those recognized methods and techniques that are necessary to produce a
3 credible appraisal in violation of USPAP Standard Rule S.R. 1-1(a).

4 f. Based upon the findings noted in above items a, b, c, and d, Respondent
5 committed substantial errors of omission or commission that significantly affected the appraisal
6 in violation of USPAP Standard Rule 1-1(b).

7 g. Based on the findings noted in above items a, b, c, and d, Respondent failed to
8 clearly and accurately set forth the appraisal in a manner that would not be misleading in
9 violation of USPAP Standard Rule 2-1(a).

10 h. Based on the findings noted in above items a, b, c, and d, Respondent failed to
11 provide sufficient information to enable the intended users of the report to understand it properly
12 in violation of USPAP Standard Rule 2-1(b).

13 i. Based on the findings noted in above items a, b, c, and d, in addition to an
14 appraisal report that was not credible, Respondent violated the USPAP Conduct section of the
15 Ethic Rule.

16 SECOND CAUSE FOR DISCIPLINE

17 (USPAP Violations)

18 27. Respondent is subject to disciplinary action under California Code of Regulations,
19 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,
20 section 3701 and Business and Professions Code section 11319 in that Respondent violated
21 USPAP. The circumstances are as follows:

22 28. On or about April 14, 2010, Respondent completed a real estate appraisal report for a
23 property located at 1305-1307 W. 56th Street, Los Angeles, California ("W. 56th subject"). The
24 report contains certain errors or omissions which are violations of the provisions of the USPAP.
25 The violations are as follows:

26 a) Respondent created a misleading report by failing to collect, verify, analyze and
27 report all information necessary for credible assignment results via the Sales Comparison
28 Approach. Specifically, Respondent reported false sources for the rental data. Additionally,

1 Respondent failed to adequately discuss and support relevant time adjustments. Respondent's
2 actions violated USPAP Standards Rules 1-4(a) and 2-2(b)(viii).

3 b) Respondent utilized false rental data and an unsupported gross rent multiplier, which
4 invalidated the Income Approach. Respondent's actions violated USPAP Standards Rules 1-
5 4(c)(i)(iii)(iv) and 2-2(b)(viii).

6 c) Respondent failed to adequately disclose and analyze the W. 56th subject's listing
7 history and sale price, which was \$20,000 above the list price and \$83,000 above a prior sale
8 price of the subject property that occurred one month earlier. Respondent's actions violated of
9 USPAP Standards Rules 1-5(a) and 2-2(b)(viii).

10 d) Respondent failed to adequately disclose and analyze all prior sales and transfer of
11 the W. 56th subject property that occurred during the prior three years, including a Fannie Mae
12 foreclosure, in violation of USPAP Standards Rules 1-5(b) and 2-2(b)(viii).

13 e) Based upon the findings noted in above items a, b, c, and d, Respondent failed to
14 correctly employ those recognized methods and techniques that are necessary to produce a
15 credible appraisal in violation of USPAP Standards Rule 1-1(a).

16 f) Based upon the findings noted in above items a, b, c, and d, Respondent committed
17 substantial errors of omission and/or commission that significantly affected the appraisal in
18 violation of USPAP Standards Rule 1-1(b).

19 g) Based on the findings noted in above items a, b, c, and d, in addition to providing a
20 false address for the W. 56th subject property, Respondent failed to clearly and accurately set
21 forth the appraisal in a manner that would not be misleading in violation of USPAP Standards
22 Rules 2-1(a).

23 h) Based on the findings noted in above items a, b, c, and d, Respondent failed to
24 provide sufficient information to enable the intended users of the report to understand it properly
25 in violation of USPAP Standards Rule 2-1(b).

26 i) Based on the findings noted in above items a, b, c, and d, in addition to an appraisal
27 that was not credible, Respondent violated the USPAP Conduct section of the Ethics Rule.

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1 THIRD CAUSE FOR DISCIPLINE

2 (USPAP Violations)

3 29. Respondent is subject to disciplinary action under California Code of Regulations,
4 title 10, section 3721(a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10,
5 section 3701 and Business and Professions Code section 11319 in that Respondent violated
6 USPAP. The circumstances are as follows:

7 30. On or about September 12, 2010, Respondent completed a real estate appraisal report
8 for a property located at located 746 S. Los Angeles Street, Unit 102, Los Angeles, California
9 ("S. Los Angeles subject"). The report contains certain errors or omissions which are violations
10 of the provisions of the USPAP. The violations are as follows:

11 a) Respondent falsely described the subject's location as suburban in the Neighborhood
12 Characteristics section of the report, whereas the subject was located in an urban location in
13 violation of USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

14 b) Respondent falsely stated property values were stable, whereas property values were
15 declining. Respondent also stated the demand/supply was in balance, whereas there was an
16 oversupply. Respondent actions violated USPAP Standards Rules 1-2(e)(i), 1-3(a), and 2-
17 2(b)(iii).

18 c) Respondent failed to adequately discuss and analyze the subject's development and
19 the lack of sales activity. Respondent also falsely stated the number of units that were completed
20 and sold, in addition to the number of units available for sale. Respondent's actions violated
21 USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

22 d) Respondent falsely stated the S. Los Angeles subject had one bedroom and a one car
23 garage in violation of USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii).

24 e) Respondent created a misleading report by failing to collect, verify, and analyze all
25 information necessary for credible assignment results via the Sales Comparison Approach.
26 Specifically, Respondent failed to appropriately discuss and analyze the S. Los Angeles subject's
27 ground floor location, including retail and pedestrian influence and underground parking
28 influence, in comparison to the varying upper floor locations and views of the comparable sales

1 used. Respondent falsely stated the days on market for Comparable Sale One. Respondent also
2 failed to discuss and analyze relevant time adjustments. Additionally, Respondent falsely stated
3 Comparable Sale Five was an active listing, whereas this listing had expired approximately
4 seventeen months prior to his date of report. Respondent's actions violated USPAP Standards
5 Rules 1-4(a) and 2-2(b)(viii).

6 f) Respondent failed to adequately discuss and analyze the inventory of unsold units and
7 the lack of recent comparable sales within the S. Los Angeles subject's development in violation
8 of USPAP Standards Rules 1-4(a) and 2-2(b)(viii).

9 g) Respondent failed to adequately discuss and analyze why his concluded value was
10 29% (\$46,000) above Comparable Sale Four, which was an active listing within the S. Los
11 Angeles subject's development. Additionally, Respondent falsely stated the active listings, one of
12 which was expired, supported his estimated market value. Respondent's actions violated USPAP
13 Standards Rules 1-4(a), 1-6(a), and 2-2(b)(viii).

14 h) Respondent disclosed, but failed to adequately discuss and analyze the S. Los
15 Angeles subject's prior sale, which occurred within the past three years for approximately 39%
16 more than his concluded value. Respondent's actions violated USPAP Standards Rules 1-5(b)
17 and 2-2(b)(viii).

18 i) Based upon the findings noted in above items a, b, c, d, e, f, g, and h, Respondent
19 failed to correctly employ those recognized methods and techniques that are necessary to produce
20 a credible appraisal in violation of USPAP Standards Rule 1-1(a).

21 j) Based upon the findings noted in above items b, c, d, e, f, g, and h, Respondent
22 committed substantial errors of omission or commission that significantly affected the appraisal
23 in violation of USPAP Standards Rule 1-1(b).

24 k) Based on the findings noted in above items a, b, c, d, e, f, g, and h, Respondent failed
25 to clearly and accurately set forth the appraisal in a manner that would not be misleading in
26 violation of USPAP Standards Rule 2-1(a).

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4. Taking such other and further action as deemed necessary and proper.

DATED: 7/29/13

Original Signed

ELIZABETH SEATERS
Chief of Enforcement
Bureau of Real Estate Appraisers
State of California
Complainant

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