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BEFORE THE
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **STEVEN S. RIVIERA** **3807 West Sierra Highway, No. 4411** **Acton, CA 93510** **Real Estate Appraiser License No. AR011519** Respondent.	Case Nos. C 080917-08, C 081103-06, and C110909-17 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 25, 1993, the Director of the Office of Real Estate Appraisers issued Real Estate Appraiser License Number AR011519 to Steven S. Riviera (Respondent). The Real Estate Appraiser License was in full force and effect at all times relevant to the charges brought herein and will expire on June 22, 2013, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Director of the OREA (Director), under the authority of the following laws.

STATUTORY PROVISIONS

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

The office [Office of Real Estate Appraisers] is under the supervision and control of the secretary [secretary of the Business, Transportation and Housing Agency]. The duty of enforcing and administering this part is vested in the director [director of the Office of Real Estate Appraisers] and he or she is responsible to the secretary therefore. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part.

5. 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. Code section 11319 states:

Notwithstanding any other provision of this code, the Uniform Standards of Professional Appraisal Practice [USPAP] 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. 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.

REGULATORY PROVISIONS

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

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

9. Regulation 3705 provides in pertinent part that every appraisal report subject to the Uniform Standards of Professional Appraisal Practice upon final completion shall bear the signature and license number of the appraiser and of the supervising appraiser, if appropriate. The affixing of such signature and number constitute the acceptance by the appraiser and supervising appraiser of full and personal responsibility for the accuracy, content, and integrity of the appraisal under Standards Rules 1 and 2 of USPAP.

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

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

. . . .

(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or another, or to injure another;

. . . .

(6) Violated any provision of USPAP [Uniform Standards of Professional Appraisal Practice];

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

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UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

11. USPAP Rule 1 states:

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

12. 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

. . . .

13. USPAP Standards Rule 1-2 states:

In developing a real property appraisal, an appraiser must:

. . . .

(e) identify the characteristics of the property that are relevant to the type and definition of value 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

14. USPAP Standards Rule 1- 4 states in pertinent part:

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

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

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15. USPAP Standards Rule 1-5 states, in pertinent part:

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

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

. . . . .

16. USPAP Standards Rule 1-6 states, in pertinent part:

In developing a real property appraisal, an appraiser must:

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

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

17. USPAP Standards Rule 2-1 states, in pertinent part:

Each written or oral real property appraisal report must:

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

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

. . . .

18. USPAP Standards Rule 2-2 states, in pertinent part:

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

. . . .

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

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

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

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

19. The Ethics Rule of USPAP states, in pertinent part:

To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping.

Compliance with these standards is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply.

Conduct:

An appraiser must perform assignments ethically and competently in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

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

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

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

20. The Scope of Work Rule of USPAP states:

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

1. identify the problem to be solved;

2. determine and perform the scope of work necessary to develop credible assignment results; and

3. disclose the scope of work in the report.

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

COST RECOVERY AND FINES

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

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Misleading and Inaccurate Appraisal Report-Charles Street)

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, sections 3705 and 3721, subdivisions (a)(6) and (a)(7) in that on or about November 6, 2007, Respondent completed a real estate appraisal report for a single family residential home located at 19155 Charles Street, Tarzana, California. The report contained errors or omissions, in violation of the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

(a) Respondent failed to perform an adequate scope of work by not obtaining and utilizing relevant data sources such as MLS, in order to produce a credible appraisal report (S.R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule);

(b) Respondent created a misleading report by failing to collect, verify, and analyze all information necessary for credible assignment results via the Sales Comparison Approach. Specifically, Respondent applied condition ratings and adjustments that were unsupported by any relevant data. Respondent's use of Comparable Sale One was inappropriate because it was a high sale that was not an open market transaction. Respondent also provided a false photograph of Comparable Sale One. Additionally, Respondent failed to appropriately discuss and analyze Comparable Sale Three's significantly superior lot size (S.R. 1-4(a) and 2-2(b)(viii));

(c) Respondent failed to appropriately discuss and analyze the subject property's listing history and how the subject was marketed for sale. Respondent also failed to appropriately discuss and analyze the subject property's purchase price and sale concessions or, alternatively, to state what attempts were made to obtain this information, where the information was not available (S.R. 1-5(a) and 2-2(b)(viii));

(d) Respondent failed to appropriately reconcile his concluded value of the subject property, which was significantly higher and unsupported by the subject property's recent list price and marketing history. Respondent also failed to reconcile his concluded value with the disparity in adjusted sale prices of the comparable sales utilized in the Sales Comparison Approach (S.R. 1-6(a)(b) and 2-2(b)(viii);

(e) Based upon the findings set forth above in paragraphs a, b, c and d, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));

(f) Based upon the findings set forth above in paragraphs a, b, c and d, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));

(g) Based on the findings set forth above in paragraphs a, b, c and d, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));

(h) Based on the findings set forth above in paragraphs a, b, c and d, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b)); and

(i) Based on the findings set forth above in paragraphs a, b, c and d, in addition to his overvaluation of the subject property, Respondent violated the Conduct section of the Ethics Rule.

SECOND CAUSE FOR DISCIPLINE

(Failure to submit complete work file to OREA-Charles Street)

24. Respondent is subject to disciplinary action under Business and Professions Code 11328, in that he failed to submit his complete appraisal file for the appraisal of the property located at 19155 Charles Street, Tarzana, California. The circumstances are that Respondent failed to submit all versions of the appraisal report, and supporting documentation to the Office of Real Estate Appraisers when requested to do so.

THIRD CAUSE FOR DISCIPLINE

(Misleading and Inaccurate Appraisal Report-Greenbush Avenue)

25. 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, sections 3705 and 3721, subdivisions (a)(6) and (a)(7) in that on or about October 5, 2008, Respondent completed a real estate appraisal report for a single family residential home located at 4144 Greenbush Avenue, Sherman Oaks, California. The report contained errors or omissions, in violation of the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), listed as follows:

(a) Respondent grossly misrepresented the subject property's condition as average, whereas the subject suffered significant deferred maintenance (S.R. 1-2(e)(i) and 2-2(b)(iii));

(b) Respondent inappropriately stated the subject property's effective age at 35-40 years, whereas the subject property was 85 years old with significant deferred maintenance (S.R. 1-2(e)(i) and 2-2(b)(iii);

(c) Respondent failed to perform an adequate scope of work by not obtaining and utilizing relevant data sources such as MLS, in order to produce a credible appraisal report (S.R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule);

(d) Respondent created a misleading report by failing to collect, verify, and analyze all information necessary for credible assignment results via the Sales Comparison Approach. Specifically, Respondent grossly misrepresented the subject property's condition, resulting in a value conclusion that was not credible. Respondent also applied condition ratings and adjustments that were unsupported by any relevant data. Additionally, Respondent provided a false photograph of Comparable Sale Two (S.R. 1-4(a) and 2-2(b)(viii));

(e) Based upon the findings set forth above in paragraphs a, b, c and d, Respondent failed to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal (S.R. 1-1(a));

(f) Based upon the findings set forth above in paragraphs a, b, c and d, Respondent committed substantial errors of omission or commission that significantly affected the appraisal (S.R. 1-1(b));

(g) Based on the findings set forth above in paragraphs a, b, c and d, Respondent failed to clearly and accurately set forth the appraisal in a manner that would not be misleading (S.R. 2-1(a));

(h) Based on the findings set forth above in paragraphs a, b, c and d, Respondent failed to provide sufficient information to enable the intended users of the report to understand it properly (S.R. 2-1(b)); and

(i) Based on the findings set forth above in paragraphs a, b, c and d, Respondent violated the Conduct section of the Ethics Rule.

FOURTH CAUSE FOR DISCIPLINE

(Failure to submit complete work file to OREA-Greenbush Avenue)

26. Respondent is subject to disciplinary action under Business and Professions Code 11328, in that he failed to submit his complete appraisal file for the appraisal of the property located at 4144 Greenbush Avenue, Sherman Oaks, California. The circumstances are that Respondent failed to submit all versions of the appraisal report, and supporting documentation to the Office of Real Estate Appraisers when requested to do so.

FIFTH CAUSE FOR DISCIPLINE

(Failure to submit complete work file to OREA-Raven Court)

27. Respondent is subject to disciplinary action under Business and Professions Code 11328, in that he failed to submit his complete appraisal file for the appraisal of the property located at 367 Raven Court, Healdsburg, California. The circumstances are that Respondent failed to submit all versions of the appraisal report, and supporting documentation to the Office of Real Estate Appraisers when requested to do so on several occasions.

DISCIPLINARY CONSIDERATIONS

28. On or about January 25, 2002, a Decision was issued in the disciplinary action against Steven Riviera in Case Numbers C981119-02 and C010226-03 wherein Respondent had entered into a Settlement Agreement. Among other things, Respondent was issued a public reproval and was required to complete 45 hours of course work in Basic Education and 15 hours of USPAP training. He was also required to pay a $2,000 fine and enforcement costs. The circumstances involved the failure to accurately disclose the actual physical condition and key improvement characteristics of multiple subject properties; failure to analyze current agreement of sales or prior transfers of the subject properties within 12 months of the date of the appraisal; incorrectly utilizing comparable sales dissimilar in location and amenities to the subject properties in the Sales Comparison Approach.

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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 AR011519, issued to Steven S. Riviera;

2. Ordering Steven S. Riviera 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 Steven S. Riviera to pay the Director of the Office of Real Estate Appraisers a fine pursuant to Business and Professions Code section 11316.

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

DATED: 5/2/12

Original Signed

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

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