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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:
ERNIE Q. BARRERA
1468 Leafree Circle
San Jose, CA 95131

Appraiser License No. AL 012759

Respondent.

Case No. C20131216-07

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 30, 2014, Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Bureau of Real Estate Appraisers (Complainant), filed Accusation No. C20131216-07 against Ernie Q. Barrera (Respondent) before the Bureau of Real Estate Appraisers. (Accusation attached as Exhibit A.)
2. On or about December 28, 1992, the Bureau of Real Estate Appraisers (Bureau) (formerly the Office of Real Estate Appraisers) issued Appraiser License No. AL 012759 to Respondent. The Appraiser License was in full force and effect at all times relevant to the

1 charges brought in Accusation No. C20131216-07 and will expire on October 20, 2014, unless
2 renewed.

3 3. On or about July 2, 2014, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. C20131216-07, Statement to Respondent, Notice of Defense,
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
6 and 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 1468 Leafree Circle

10 San Jose, CA 95131

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 July 7, 2014, the U.S. Postal Service returned a signed Domestic Return
15 Receipt, indicating that the documents were received.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
24 C20131216-07.

25 8. California Government Code section 11520 states, in pertinent part:

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

///

1 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

2 This Decision shall become effective on 9-29-14.

3 It is so ORDERED 8-28-14

4
5 **Original Signed**

6 ~~CHIEF OF THE BUREAU OF REAL ESTATE~~
7 ~~APPRAISERS~~
8 ~~DEPARTMENT OF CONSUMER AFFAIRS~~

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DOJ Matter ID:SF2014408498

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

| | |
|---|-----------------------|
| 11 In the Matter of the Accusation Against: | Case No. C20131216-07 |
| 12 ERNIE Q. BARRERA | |
| 13 1468 Leafree Circle | |
| 13 San Jose, CA 95131 | ACCUSATION |
| 14 Appraiser License No. AL 012759 | |
| 15 Respondent. | |

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
20 (Complainant), Department of Consumer Affairs, brings this Accusation solely in her official
21 capacity as Chief of Enforcement for Complainant.
- 22 2. On or about October 21, 1998, the Bureau of Real Estate Appraisers (formerly Office
23 of Real Estate Appraisers) issued Appraiser License Number AL 012759 to Ernie Q. Barrera
24 (Respondent). The Appraiser License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on October 20, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Bureau of Real Estate Appraisers (Bureau) for the
28 Department of Consumer Affairs, under the authority of the following laws. All section references

1 are to the Business and Professions Code unless otherwise indicated.

2 4. Business and Professions Code section 11313 states:

3 "The bureau is under the supervision and control of the Director of Consumer Affairs. The
4 duty of enforcing and administering this part is vested in the chief, and he or she is responsible to
5 the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and regulations
6 as are determined reasonably necessary to carry out the purposes of this part. Those rules and
7 regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1
8 of Division 3 of Title 2 of the Government Code. Regulations adopted by the former Director of
9 the Office of Real Estate Appraisers shall continue to apply to the bureau and its licensees."

10 5. Business and Professions Code section 11315.3 states:

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

19 6. Business and Professions Code section 11301 states:

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

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

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

25 "(a) The director may assess a fine against a licensee, applicant for licensure, person who
26 acts in a capacity that requires a license under this part, course provider, applicant for course
27 provider accreditation, or a person who, or entity that, acts in a capacity that requires course
28

1 provider accreditation for violation of this part or any regulations adopted to carry out its
2 purposes."

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

4 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public
5 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the
6 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
7 capacity requiring a license or Certificate of Registration who has:

8 ...
9 "(4) Done any act which if done by the holder of a license to practice real estate appraisal
10 would be grounds for revocation or suspension of such license;

11 ...
12 "(7) Violated any provision of the Real Estate Appraisers' Licensing and Certification Law,
13 Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or
14 regulations promulgated pursuant thereto; or any provision of the Business and Professions Code
15 applicable to applicants for or holders of licenses authorizing appraisals;

16 ...
17 "(b) Before issuing any private or public reproof or denying, suspending, or revoking any
18 license or Certificate of Registration issued or issuable under the provisions of the Real Estate
19 Appraisers Licensing and Certification Law or these regulations, the Office shall proceed as
20 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
21 Government Code (the Administrative Procedure Act) and the Office shall have all the powers
22 granted therein.

23 ..."
24 9. Business and Professions Code section 11328 states, in pertinent part:

25 "To substantiate documentation of appraisal experience, or to facilitate the investigation of
26 illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that
27 requires a license, that licensee, applicant, or person shall, upon the request of the director, submit
28

1 copies of appraisals, or any work product which is addressed by the Uniform Standards of
2 Professional Appraisal Practice, and all supporting documentation and data to the OREA."

3 10. Business and Professions Code section 11409, subdivision (a) states:

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

11 CAUSE FOR DISCIPLINE

12 (FAILURE TO FACILITATE INVESTIGATION)

13 11. Respondent is subject to disciplinary action under Regulation section 3721,
14 subdivisions (a)(4) and (a)(7), by and through his violation of Business and Professions Code
15 section 11328.

16 12. On or about January 8, 2014, the Bureau mailed a demand letter to Respondent's
17 address of record, requesting submittal of appraisal and workfile copies for an August 23, 2011
18 appraisal of real property located at 17415 Wedgewood Avenue, Los Gatos, California, 95032.
19 The letter requested a response no later than February 7, 2014.

20 12. On or about March 4, 2014, and again on March 18, 2014 a Bureau representative left
21 voice mail messages for Respondent regarding the demand letter.

22 13. On or about March 24, 2014, the Bureau mailed a final demand letter to Respondent's
23 address of record, requiring a response no later than March 29, 2014.

24 14. On or about April 15, 2014, a Bureau representative left a voice mail message on
25 Respondent's business phone for Respondent requesting a return call. On or about April 21, 2014,
26 a caller identified as Respondent's wife called the Bureau representative and stated that
27 Respondent was out of the country and unavailable. On or about April 21, 2014, a Bureau
28

1 representative left a voice mail on Respondent's home phone requesting a return call. Respondent
2 failed to respond to any of the Bureau's inquiries.

3 DISCIPLINE CONSIDERATIONS

4 15. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on or about November 2, 2011, in a prior action, the Office of Real
6 Estate Appraisers issued Citation Number C 100802-02 and ordered Respondent to pay a fine in
7 the amount of \$1,000.00. That Citation is now final and is incorporated by reference as if fully set
8 forth.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Chief of the Bureau of Real Estate Appraisers issue a decision:

- 12 1. Revoking or suspending Real Estate Appraiser License Number AL 012759, issued to
13 Ernie Q. Barrera;
- 14 2. Ordering Ernie Q. Barrera to pay the Bureau of Real Estate Appraisers the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
16 section 11409;
- 17 3. Ordering Ernie Q. Barrera to pay the Bureau of Real Estate Appraisers a fine pursuant
18 to Business and Professions Code section 11316; and
- 19 4. Taking such other and further action as deemed necessary and proper.
- 20
21

22 **Original Signed**

23 DATED: 6/30/14

24 ELIZABETH SEATERS
25 Chief of Enforcement
26 Bureau of Real Estate Appraisers
27 Department of Consumer Affairs
28 State of California
Complainant

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