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

In the Matter of the Accusation Against: **JOHN CHEN** **982 Loraine Ave.** **Los Altos, CA 94024** **Real Estate Appraiser License No. 014225** Respondent.	Case No. C111230-01 OAH No. 2013080584

DECISION AND ORDER

The attached Stipulated Surrender of License 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 11-29-13.

It is so ORDERED 10-30-12

Original Signed

FOR THE CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS

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FRANK H. PACOE
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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: **JOHN CHEN** **982 Loraine Ave.** **Los Altos, CA 94024** **Real Estate Appraiser License No. 014225** Respondent.	Case No. C111230-01 OAH No. 2013080584 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibilities of the Bureau of Real Estate Appraisers ("Bureau"), the parties hereby agree to the following Stipulated Surrender of License and Disciplinary Order which will be submitted to the Bureau Chief for approval and adoption as the final disposition of the Accusation.

PARTIES

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

2. John Chen (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about December 21, 2005, the Bureau of Real Estate Appraisers (formerly Office of Real Estate Appaisers) issued Real Estate Appraiser License No. 014225 to Respondent. The Real Estate Appraiser License was in full force and effect at all times relevant to the charges brought in Accusation No. C111230-01 and will expire on April 29, 2015, unless renewed.

JURISDICTION

4. Accusation No. C111230-01 was filed before the Bureau of Real Estate Appraisers (Bureau), for the Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 9, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. C111230-01 is attached as Exhibit A and incorporated by reference.

5. When deemed by the Bureau Chief to be in the public interest, Complainant has the authority under Business and Professions Code section 11315.5 to enter into a settlement related to administrative allegations of violations of the regulations governing the conduct of licensed appraisers and appraisal management companies. The administrative allegations associated with Accusation No. C111230-01 against Respondent are incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. C111230-01. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. C111230-01, agrees that cause exists for discipline and hereby surrenders his Real Estate Appraiser License No. 014225 for the Bureau's formal acceptance.

10. Respondent understands that by signing this stipulation he enables the Bureau Chief to issue an order accepting the surrender of his Real Estate Appraiser License without further process.

11. Respondent understands and agrees that, by signing this Stipulated Settlement, the Bureau Chief will treat any application for licensure, or certificate of registration as an appraisal management company, or petition for reinstatement as a new application for licensure.

12. Respondent understands and acknowledges that, pursuant to Business and Professions Code section 11409(c)(2), the Bureau of Real Estate Appraisers is not authorized to accept a new application from Respondent for licensure or certification until such time that payment of the costs of investigation, enforcement and prosecution of this case, as imposed by this order, is received in full.

CONTINGENCY

12. This stipulation shall be subject to approval by the Bureau of Real Estate Appraisers. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Real Estate Appraisers may communicate directly with the Bureau Chief regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Bureau Chief considers and acts upon it. If the Bureau Chief fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Bureau shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

ORDER

IT IS HEREBY ORDERED that Real Estate Appraiser License No. 014225, issued to Respondent John Chen, is surrendered and accepted by the Bureau of Real Estate Appraisers.

1. The surrender of Respondent's Real Estate Appraiser License and the acceptance of the surrendered license by the Bureau shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Bureau of Real Estate Appraisers.

2. Respondent shall lose all rights and privileges as a Real Estate Appraiser in California as of the effective date of the Bureau's Decision and Order.

3. Respondent shall cause to be delivered to the Bureau his license certificate on or before the effective date of the Decision and Order.

4. If he ever applies for licensure or any certificate or registration as an appraisal management company to the Bureau of Real Estate Appraisers, or petitions for reinstatement in the State of California, the Bureau shall treat it as a new application for licensure or certification. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in

Accusation No. C111230-01 shall be deemed to be true, correct and admitted by Respondent when the Bureau determines whether to grant or deny the application or petition.

5. Respondent shall not be eligible to apply for a new license or for a certification of registration as an appraisal management company until one year from the effective date of this Stipulated Surrender.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $3,279.01 prior to issuance of a new or reinstated license.

7. Respondent shall pay the Bureau an administrative fine of $5,000.00 prior to issuance of a new or reinstated license. However, Respondent shall not be required to pay these charges as long as his license remains surrendered.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Real Estate Appraiser License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Bureau of Real Estate Appraisers.

DATED: Oct. 10th, 2013

Original Signed

JOHN CHEN
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Bureau of Real Estate Appraisers.

Dated: 10/22/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed

CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. C111230-01

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

In the Matter of the Accusation Against: **JOHN CHEN** **982 Loraine Ave.** **Los Altos, CA 94024** **Certified Real Estate Appraiser License No. 014225** Respondent.	Case No. C111230-01 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about December 21, 2005, the Director of the Office of Real Estate Appraisers issued Certified Real Estate Appraiser License Number 014225 to John Chen (Respondent). The Certified Real Estate Appraiser License was in full force and effect at all times relevant to the charges brought herein and expired on April 29, 2013.[1]

[1] Respondent timely filed his renewal application; the application is currently being processed.

JURISDICTION

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

4. Business and Professions 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 therefor. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part."

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

6. Business and Professions Code section 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."

7. Business and Professions Code section 11319 states:

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

8. Business and Professions Code section 11325, subdivision (a) states:

"The director shall adopt regulations which determine the parameters of appraisal work which may be performed by licensed appraisers."

9. Business and Professions Code section 11328 states:

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

10. California Code of Regulations, title 10, 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."

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

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

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

"(2) That registered Appraisal Management Companies are vested with a relationship of trust and confidence as to their clients, lending institutions, and both public and private guarantors or insurers of funds in federally-related real estate transactions and that the qualifications of honesty, candor, integrity, and trustworthiness are directly and substantially related to and indispensable to their business operations; and

"(3) Every holder of a license to practice real estate appraisal, Registrant, Controlling

Person of an Appraisal Management Company, or person or entity acting in a capacity requiring a license or Certificate of Registration shall be required to demonstrate by his or her conduct that he or she possesses the qualifications of honesty, candor, integrity, and trustworthiness.

"(b) The Director may require such proof as he may deem advisable concerning the special qualifications of an applicant for or holder of an appraisers' license or a Certificate of Registration."

12. 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 or Certificate of Registration, and/or may deny the issuance or renewal of a license or Certificate of Registration of any person or entity acting in a capacity requiring a license or Certificate of Registration who has:

"(1) Been convicted of a felony or any crime which is substantially related to the qualifications, functions, or duties of the profession of real estate appraisal;

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

"(3) Been convicted for a commission or solicitation of a criminal act which involved or threatened bodily harm to others;

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

"(5) Knowingly made a false statement of material fact required to be disclosed in an application for a license authorizing the practice of real estate appraisal;

"(6) Violated any provision of USPAP;

"(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;

"(8) Been prohibited from participating in the affairs of an insured depository institution pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. Section 1829.); or

"(9) Submitted a financial instrument to OREA for the payment of any fee, fine or penalty which instrument is subsequently dishonored by the issuing institution due to an act or omission of that person.

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

"(c) Any person issued a citation containing a fine or order of abatement may contest the citation by filing a written notice with the Office within 30 calendar days that states with specificity the basis of the appeal. Upon receipt of such notice, the Office shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the Administrative Procedure Act) and the Office shall have all the powers granted therein."

13. Business and Professions 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, registrant, applicant for a certificate of registration, 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."

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2008 UNIFORM STANDARDS OF APPRAISAL PRACTICE ("USPAP")[2]

14. 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

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

15. USPAP Standards Rule 1-2 states:

In developing a real property appraisal, an appraiser must:

(a) identify the client and other intended users;

(b) identify the intended use of the appraiser's opinions and conclusions;

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

(i) in terms of cash; or

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

(iii) in other precisely defined terms; and

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

(d) identify the effective date of the appraiser's opinions and conclusions;

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

[2] 2008 USPAP was in effect for appraisals between January 1, 2008 and December 31, 2009.

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

(ii) the real property interest to be valued;

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

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

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

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

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

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

16. USPAP Standards Rule 1-3 states:

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

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

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

17. USPAP Standard Rule 1-4 states:

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.

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

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

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

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

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

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

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

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

(iv) base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.

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

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

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

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

18. USPAP Standard Rule 1-6 states:

In developing a real property appraisal, the appraiser must:

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

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

USPAP Standard 2 states:

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

19. USPAP Standards Rule 2-1 states:

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

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

20. USPAP Standards Rule 2-2 states:

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.

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

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

(ii) state the intended use of the appraisal;

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

(iv) state the real property interest appraised;

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

(vi) state the effective date of the appraisal and the date of the report;

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

(viii) describe 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;

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

(x) clearly and conspicuously:

state all extraordinary assumptions and hypothetical conditions; and

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

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

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

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

(ii) state the intended use of the appraisal;

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

(iv) state the real property interest appraised;

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

(vi) state the effective date of the appraisal and the date of the report;

(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;

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

(x) clearly and conspicuously:

state all extraordinary assumptions and hypothetical conditions; and

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

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

(c) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, by name or type;

(ii) state the intended use of the appraisal;

(iii) state information sufficient to identify the real estate involved in the appraisal;

(iv) state the real property interest appraised;

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

(vi) state the effective date of the appraisal and the date of the report.

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

(viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

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

(x) clearly and conspicuously:

state all extraordinary assumptions and hypothetical conditions; and

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

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

21. The USPAP ETHICS RULE states:

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. The first three sections apply to all appraisal practice, and all four sections apply to appraisal practice performed under Standards 1 through 10.

Compliance with USPAP 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. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

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

Conduct:

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

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 advocate the cause or interest of any party or issue.

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

An appraiser must not communicate assignment 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.

Management:

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.

It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:

1. the reporting of a predetermined result (e.g., opinion of value);

2. a direction in assignment results that favors the cause of the client;

3. the amount of a value opinion;

4. the attainment of a stipulated result; or

5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is unethical.

Confidentiality:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.

An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when the disclosure to a committee would violate applicable law or regulation. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee.

Record Keeping:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:

the name of the client and the identity, by name or type, of any other intended users;

true copies of any written reports, documented on any type of media;

summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and

all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.

An appraiser must retain the workfile for a period of at least five (5) years after preparation or at

least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.

22. The USPAP Competency Rule states:

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must:

1. disclose the lack of knowledge and/or experience to the client before accepting the assignment;

2. take all steps necessary or appropriate to complete the assignment competently; and

3. describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

CAUSE FOR DISCIPLINE

(USPAP VIOLATIONS - 2133 Diego Court, Tracy, California)

23. On March 4, 2008, Respondent completed a real estate appraisal report for property described as 2133 Diego Court, Tracy, California. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a)(6) and (a)(7), by and through his violations of Regulation sections 3701, 3702 subdivisions (a)(1) and (a)(3), under Business and Professions Code sections 11319 and 11328 for the following USPAP violations:

a. Respondent failed to describe the subject neighborhood properly. The neighborhood description includes contradictory information regarding price trends as it states that they are

declining and increasing, in violation of Standards Rules 1-1(a), 1-1(b), 1-2(e)(i), 1-3(a), 2-1(b) and 2-2(b)(iii);

b. Respondent failed to describe the subject property in a consistent and credible manner. The sketch diagram in the report shows the measured size of the subject property, but in the description of the improvements and in the valuation section, a much higher number is used resulting in gross over valuation, in violation of Standards Rules 1-1(a), 1-1(b), 1-2(e)(i), and 2-2(b)(iii);

c. Respondent failed to complete the Cost Approach to value in a credible manner. Respondent valued the subject property using a grossly over stated size of the improvements, in violation of Standards Rules 1-1(a), 1-1(b), 1-4(b)(i)(ii), 2-1(b) and 2-2(b)(iii);

d. Respondent failed to complete the Sales Comparison Approach correctly by using inappropriate comparables and misrepresenting them; Respondent misrepresented the comparable sales by placing the wrong photographs of the comparables in his report; Respondent failed to describe his comparables appropriately, two of which were trustee sales; Respondent over stated the gross living area of the subject property resulting in a flawed analysis of the sales, in violation of Standards Rules 1-1(a), 1-1(b), 1-4(a), 2-1(a), and the Competency Rule;

e. Respondent failed to reconcile the data in his valuation, as his final estimate of value was not within the indicated value range shown in his analysis and there was no explanation as to why it was not within the indicated range, in violation of Standard Rules 1-1(a), 1-6(a), 2-2(b)(viii) and the Competency Rule;

f. Respondent rendered services in an unprofessional manner by producing an appraisal report with an abundance of errors, both minor and major. Amongst those errors were the failure to describe the subject property and the market in a consistent manner, and failure to value the subject property credibly, in violation of Standard Rules 1-1(a), 1-1(b), 2-2(b)(viii) and the Competency Rule; and

g. Respondent failed to keep a complete work file and submit it to OREA as required by a Demand Letter sent to him, in violation of the Record Keeping and Conduct Section of the Ethics Rule.

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 Certified Real Estate Appraiser License Number 014225, issued to John Chen;

2. Ordering John Chen 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 John Chen 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: 5/6/13

Original Signed

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

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