

1 Regulations, section 3527, is required to be reported and maintained with the Director.

2 Respondent's address of record was and is:

3 P.O. Box 726, Imperial, CA 92251.

4 4. In addition to Respondent's address of record, Respondent was served with the
5 above-referenced documents at 614 Lee Road, Imperial, CA 92251.

6 5. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 6. On or about April 4, 2012, the aforementioned documents were returned by the U.S.
10 Postal Service marked "Forward Expired." The address on the documents was the same as the
11 address on file with the Director. Respondent failed to maintain an updated address with the
12 Director and the Director has made attempts to serve the Respondent at the address on file.
13 Respondent has not made himself available for service and therefore, has not availed himself of
14 his right to file a notice of defense and appear at hearing.

15 7. Government Code section 11506 states, in pertinent part:

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

21 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
23 C080508-02.

24 9. 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.

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

1 as well as taking official notice of all the investigatory reports, exhibits and statements contained
2 therein on file at the Director's offices regarding the allegations contained in Accusation No.
3 C080508-02, finds that the charges and allegations in Accusation No. C080508-02, are separately
4 and severally, found to be true and correct by clear and convincing evidence.

5 11. 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 \$1,045.85 as of April 27, 2012.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Leodegario Ortega has subjected
10 his Real Estate Appraiser License No. AL026055 to discipline.

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

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

16 a. Title 10, California Code of Regulations, sections 3527, 3721(a)(6) and (a)(7), 3701
17 and 3702(a)(1) and (a)(3), and the following USPAP violations: Standards Rules 1-1(a), 1-1(b), 1-
18 2(a), 1-2(e)(i), 1-3(a), 1-4(a), 1-4(b)(ii)(iii), 1-6(a), 1-6(b), 2-1(a), 2-2(b)(i), 2-2(b)(iii), 2-
19 2(b)(viii), 2-2(b)(vi), 2-2(b)(ix), the Competency Rule, and the Scope of Work Rule, and
20 California Business and Professional Code 11328.

21 ORDER

22 IT IS SO ORDERED that Real Estate Appraiser License No. AL026055, heretofore issued
23 to Respondent Leodegario Ortega, is revoked.

24 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
25 written motion requesting that the Decision be vacated and stating the grounds relied on within
26 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
27 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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This Decision shall become effective on May 11, 2012.

It is so ORDERED May 11, 2012

Original Signed

FOR THE DEPUTY DIRECTOR OF THE OFFICE
OF REAL ESTATE APPRAISERS

20593150.DOC
DOJ Matter ID:SF2012204301

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 Kathleen S. Chovan
2 Department Counsel, State Bar No. 158325
3 Office of Real Estate Appraisers
4 1102 "Q" Street, Suite 4100
5 Sacramento, CA 95811
6 Telephone: (916) 552-9000
7 Facsimile: (916) 552-9008
8 *Attorney for Complainant*

9 **BEFORE THE**
10 **DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. C080508-02

13 **LEODEGARIO ORTEGA**
14 614 Lee Road
15 Imperial, California 92251

A C C U S A T I O N

16 P.O. Box 726
17 Imperial, California 92251

18 **Appraiser License No. AL026055**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
23 (Complainant) brings this Accusation solely in her official capacity as Acting Chief of
24 Enforcement for Complainant. She is represented in this matter by Department Counsel for the
25 Office of Real Estate Appraisers, Kathleen S. Chovan.

26 2. On or about April 29, 2008, the Director of the Office of Real Estate Appraisers
27 ("Director") issued Residential Appraiser License Number AL026055 to Leodegario Ortega
28 ("Respondent"). Respondent's real estate appraiser license was in full force and effect at all
times relevant to the charges brought herein. Respondent's real estate appraiser license expired
on April 28, 2010 and has not been renewed.

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1 **JURISDICTION**

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

5 4. Code section 11310.1 states:

6 Protection of the public shall be the highest priority for the Office of Real Estate
7 Appraisers in exercising its licensing, regulatory, and disciplinary functions. Whenever the
8 protection of the public is inconsistent with other interests sought to be promoted, the protection
9 of the public shall be paramount.

10 5. Code section 11313 requires OREA to adopt and enforce rules and regulations as are
11 determined reasonably necessary to carry out the purposes of the Real Estate Appraisers’
12 Licensing and Certification law.

13 6. Code section 11314 states, in pertinent part:

14 The office is required to include in its regulations requirements for licensure and
15 discipline of real estate appraisers that ensure protection of the public interest.

16 **FINES**

17 7. Code section 11316, subdivision (a) states:

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

23 **MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE**

24 8. Code section 11319 states:

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

3 9. Code section 11328 states:

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

11 COST RECOVERY

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

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

20 As of the date of this Accusation, Complainant has incurred \$1045.85 in investigation
21 costs for this matter.

22 REGULATORY PROVISIONS

23 11. The OREA regulations appear in Title 10, Chapter 6.5, section 3500 et seq., as
24 amended from time to time, of the California Code of Regulations (Regulation.)

25 12. Regulation section 3527 (a) states, in part:

26 (a) All applicants for and holders of a license...shall submit written notice to OREA
27 of any change to the following within 10 days on the Change Notification and Miscellaneous
28 Requests Form REA 3011 (Rev. 5/8/00), which is herein incorporated by reference:

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- (1) Name;
- (2) Residence telephone number
- (3) Business telephone number
- (4) Residence Address
- (5) Business name or address; or
- (6) Mailing address.

...

13. 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.

14. Regulation section 3702 (a) states, in pertinent part:

(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 ...

(3) Every holder of a license to practice real estate appraisal...shall be required to demonstrate by his or her conduct that he or she possesses the qualifications of honesty, candor, integrity and trustworthiness.

15. Regulation section 3705 (a) states:

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

1 responsibility for the accuracy, content, and integrity of the appraisal under Standards Rules 1
2 and 2 of USPAP.

3 16. Regulation 3721 states, in pertinent part:

4 (a) The Director may issue a citation, order of abatement, assess a fine or private or
5 public 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 (2) Done any act involving dishonesty, fraud or deceit with the intent to
9 benefit himself or another or to injure another; ...

10 (6) Violated any provision of USPAP

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

16
17 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

18 **(EFFECTIVE JANUARY 1, 2008)¹**

19 17. USPAP Standard 1 states:

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

23 18. USPAP Standards Rule 1-1 states, in part:

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

25 ///

26
27 ¹ USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report
28 for an appraisal. The 2008-2009 edition of USPAP (effective January 1, 2008, through December 31, 2009) was applicable to the appraisal in this
case, which had a report date of May 2, 2008.

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

3 (b) not commit a substantial error of omission or commission that significantly
4 affects an appraisal...

5 19. USPAP Standards Rule 1-2 states, in part:

6 In developing a real property appraisal, an appraiser must: ...

7 (a) identify the client and other intended users; ...

8 (e) identify the characteristics of the property that are relevant to the type and
9 definition of value and intended use of the appraisal, including:

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

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

13 20. USPAP Standards Rule 1-3 states, in part:

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

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

19 21. USPAP Standards Rule 1-4 states, in part:

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

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

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

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

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

4 22. USPAP Standards Rule 1-5 states, in part:

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

7 (b) analyze all sales of the subject property that occurred within the three (3) years
8 prior to the effective date of the appraisal.

9 23. USPAP Standard Rule 1-6 states:

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

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

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

15 24. USPAP Standard 2 states, in part:

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

18 25. USPAP Standards Rule 2-1 states, in part:

19 Each written or oral real property appraisal report must:

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

22 26. USPAP Standards Rule 2-2 states, in part:

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

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

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- (i) state the identity of the client and any intended users, by name or type; ...
- (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;
- (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; ...
- (xi) include a signed certificate in accordance with Standard Rule 2-3.

27. USPAP Standards Rule 2-3 states:

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

- 1 - my engagement in this assignment was not contingent upon developing or reporting
2 predetermined results.
- 3 - my compensation for completing this assignment is not contingent upon the
4 development or reporting of a predetermined value or direction in value that favors
5 the cause of the client, the amount of the value opinion, the attainment of a stipulated
6 result, or the occurrence of a subsequent event directly related to the intended use of
7 this appraisal.
- 8 - my analyses, opinions, and conclusions were developed, and this report has been
9 prepared, in conformity with the Uniform Standard of Professional Appraisal
10 Practice.
- 11 - I have (or have not) made a personal inspection of the property that is the subject of
12 this report. (If more than one person signs this certification, the certification must
13 clearly specify which individuals did and which individuals did not make a personal
14 inspection of the appraised property.)
- 15 - no one provided significant real property appraisal assistance to the person signing
16 this certification. (If there are exceptions, the name of each individual providing
17 significant real property appraisal assistance must be stated.)

18 28. The ETHICS Rule of USPAP provides, in part:

19 To promote and preserve the public trust inherent in professional appraisal practice,
20 an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is
21 divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The
22 first three sections apply to all appraisal practice, and all four sections apply to appraisal practice
23 performed under STANDARDS 1 through 10.

24 Compliance with USPAP is required when either the service or the appraiser is
25 obligated by law or regulation, or by agreement with the client or intended users, to comply. In
26 addition to these requirements, an individual should comply any time that individual represents
27 that he or she is performing the service as an appraiser.

28

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

3 Conduct:

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

6 An appraiser must not engage in criminal conduct.

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

9 An appraiser must not advocate the cause or interest of any party or issue.

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

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

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

19 Management

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

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

- 24 (1) the reporting of a predetermined value result (e.g., opinion of value)
25 (2) a direction in assignment results that favors the cause of the client;
26 (3) the amount of a value opinion
27 (4) the attainment of a stipulated result; or
28 (5) the occurrence of a subsequent event directly related to the appraiser's opinions

1 and specific to the assignment's purpose.

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

4 Confidentiality:

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

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

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

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

17 Record Keeping

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

- 20 • the name of the client and the identity, by name or type, of any other intended users;
- 21 • true copies of any written reports, documented on any type of media;
- 22 • summaries of any oral reports or testimony, or a transcript of testimony, including the
23 appraiser's signed and dated certification; and
- 24 • all other data, information, and documentation necessary to support the appraiser's
25 opinions and conclusions and to show compliance with this Rule and all other applicable
26 Standards, or references to the location(s) of such other documentation.

27 An appraiser must retain the workfile for a period of at least five (5) years after preparation
28 or at least two (2) years after final disposition of any judicial proceeding in which the appraiser

1 provided testimony related to the assignment, whichever period expires last.

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

4 29. The COMPETENCY Rule of USPAP provides as follows:

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

8 (1) disclose the lack of knowledge and/or experience to the client before
9 accepting the assignment;

10 (2) take all steps necessary or appropriate to complete the assignment

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

13 30. The SCOPE OF WORK RULE provides as follows:

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

16 (1) identify the problem to be solved;

17 (2) determine and perform the scope of work necessary to develop credible
18 assignment results; and

19 (3) disclose the scope of work in the report

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

23 Problem Identification

24 An appraiser must gather and analyze information about those assignment elements
25 that are necessary to properly identify the appraisal, appraisal review, or appraisal consulting
26 problem to be solved.

27 ///

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1 Scope of Work Acceptability

2 The scope of work must include the research and analyses that are necessary to develop
3 credible assignment results;

4 An appraiser must not allow assignment conditions to limit the scope of work to such a
5 degree that the assignment results are not credible in the context of the intended use.

6 An appraiser must not allow the intended use of an assignment or client's objectives
7 to cause the assignment results to be biased.

8 Disclosure Obligation

9 The report must contain sufficient information to allow intended users to understand
10 the scope of work performed.

11 **COUNT ONE**

12 **PROPERTY APPRAISED**

13 31. On or about February 23, 2008, Respondent performed an appraisal for the property
14 located at 2115 East Villa Road, El Centro, California. Improvements included two manufactured
15 homes on the property, with the main dwelling consisting of a 22- year old manufactured home of
16 average quality, with 1,232 square feet of gross living area on a lot size of 1.02 acres. This house
17 contains three bedrooms, two baths, central heating and air conditioning and a rear patio area. The
18 second manufactured home on the property, labeled as a guest house, had an address of 2115A
19 Villa Lane and 27 foot by 44 foot in dimension. The stated intended use was for mortgage
20 refinancing. The opinion of value was \$236,000.

21 **BASIS FOR DISCIPLINE**

22 32. Respondent is subject to disciplinary action under Regulation section 3721,
23 subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702
24 subdivisions (a) (1) and (a) (3), and the following USPAP violations:

25 (a) Respondent misrepresented the subject property by preparing the report on a
26 Fannie Mae Form 1004, Uniform Residential Appraisal Report, used for stick built homes. The
27 report was not prepared on a Fannie Mae Form 1004C, Manufactured Home Appraisal Report,
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1 used for manufactured homes such as the subject property. This form was created in March 2005
2 nearly three years prior to Respondent's report (S.R. 1-1(a), 1-1(b), 2-1(a), and 2-2(b) (ix));

3 (b) Respondent failed to identify the intended user of the assignment and the date
4 of the report (S.R. 1-2(a), 2-1(a), 2-2(b)(i), and 2-2(b)(vi));

5 (c) Respondent failed to identify the pertinent property characteristics of the
6 subject property. Respondent failed to identify the HUD Certificate Label, the manufacturer's
7 name, model, date of manufacture, serial number, and the 433 Occupancy Certificate for the
8 subject property. Respondent provided inadequate description for the additional manufactured
9 home in the report. Respondent failed to provide necessary description such as its location to the
10 main dwelling, approximate age, quality, condition, its current use, compliance to zoning and if
11 the improvement was on a permanent foundation or personal property (S.R. 1-1(a), 1-1(b), 1-
12 2(e)(i), 2-1(a), and 2-2(b)(iii));

13 (d) Respondent failed to identify and analyze the effect on use and value of the
14 existing land use regulations. The current zoning for the subject property was A2 Medium
15 General Agriculture, One Residence, which allowed for only one residence usage. The subject
16 property was in non-compliance with its current zoning because there was an additional
17 manufactured home on the property. The subject property required a conditional use permit to
18 legally allow the second additional manufactured home to exist on the property. Respondent
19 failed to discuss the non-compliance of its present use with current zoning. Respondent
20 incorrectly reported the zoning as A1 Residential Agriculture with legal conforming use (S.R. 1-
21 1(a), 1-1(b), 1-3(a), 2-1(a), and 2-2(b)(ix));

22 (e) In the Sales Comparison Approach, Respondent failed to analyze the current
23 market conditions, as time adjustments were omitted to the comparable sales that were one to six
24 months old in a declining market or failed to provide explanation for omitting such adjustments.
25 Respondent failed to adjust for superior quality of the comparable sales that were stick built
26 homes, as the subject property was a manufactured home. No adjustments were made for
27 significant differences in lot size to the comparable sales. These omissions resulted in a
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1 significant overvaluation of the subject property (S.R. 1-1(a), 1-1(b),1-4(a),
2 2-1(a), and 2-2(b)(viii));

3 (i) Comparable Sale One – 1258 Poplar Road, El Centro. This property was
4 a superior quality stick built home and an inappropriate comparison. No adjustments were
5 made for superior quality construction, inferior wall air conditioning and significantly
6 smaller lot size. No explanation was given for these omissions. This property was
7 purchased by the City of El Centro, which was not disclosed in the report.

8 (ii) Comparable Sale Two – 1450 Kestone Road, Brawley. This property was
9 a superior quality stick built home and an inappropriate comparison. No adjustment was
10 made for this property’s superior quality construction, and no explanation was given for this
11 omission.

12 (iii) Comparable Sale Three – 2611 Beebe Road, Imperial. This property was
13 a superior quality stick built home and an inappropriate comparison. No adjustment was
14 made for this property’s superior quality construction and no explanation was given for this
15 omission. Though only a .23-acre difference in size, a significant negative adjustment was
16 made for this property’s slightly larger lot size. The adjustment for differences in lot size
17 was inconsistent with other comparisons in the report.

18 (iv) Comparable Sale Four – 570 East Holton Road, El Centro. This property
19 was a similar manufactured home with a guest quarter amenity. However, Respondent
20 failed to identify what type of guest quarter this property featured. No adjustment was made
21 for this property’s significantly smaller lot size and no explanation was given for this
22 omission. Though most similar property in overall physical characteristics to the subject
23 property, its adjusted sale price did not support the concluded value.

24 (f) Respondent failed to analyze and reconcile the concluded value in the Sales
25 Comparison Approach, as there was a wide disparity in the adjusted values of the comparable
26 sales. Respondent failed to provide any discussion or reasoning as to which of the comparable
27 sales used were weighted in determining the concluded value (S.R. 1-1(a), 1-1(b), 1-4(a), 1-6(a),
28 2-1(a), and 2-2(b)(viii));

1 (g) Based on paragraphs a, b, c, d, e, and f, Respondent violated the Competency
2 Rule, and the Scope of Work Rule.

3 **COUNT TWO**

4 **PROPERTY APPRAISED**

5 33. On or about February 26, 2008, Respondent performed an appraisal for a property
6 located at 625 Southwind Drive, El Centro, California. The subject property is an average quality
7 single-family home in Imperial County, with 1,394 square feet of gross living area on a lot size of
8 7,062 square feet. The subject property was 59 years old, and contains three bedrooms, two
9 baths, central heating and air conditioning, a fireplace, one-car carport, covered patio and built-in
10 pool. The stated intended use was for mortgage refinancing. The opinion of value was \$229,600.

11 **BASIS FOR DISCIPLINE**

12 34. Respondent is subject to disciplinary action under Regulation section 3721,
13 subdivisions (a)(6) and (a)(7), by and through his violation of Regulation sections 3701, 3702
14 subdivisions (a)(1) and (a)(3), and the following USPAP violations:

15 (a) Respondent failed to disclose and discuss that the subject property backed
16 directly to a freeway. Respondent failed to analyze its potential negative impact on the subject
17 property (S.R. 1-1(b), 1-2(e)(i), 2-1(a), and 2-2(b)(iii));

18 (b) In the Sales Comparison Approach, Respondent failed to apply time
19 adjustments to the comparable sales reflecting a declining market or failed to provide reasoning
20 for excluding such adjustments. The comparable sales were one to five months old in a declining
21 market. Respondent failed to apply location adjustments to the comparable sales reflecting the
22 subject property's location backing directly to a freeway or failed to provide reasoning for
23 excluding these adjustments. Respondent failed to apply consistent adjustments for differences in
24 car storages and pool amenities of Comparable Sale Four and Comparable Listing Seven.
25 Respondent failed to provide reasoning for excluding age adjustments to Comparable Listings
26 Seven and Eight, as these properties were significantly newer in age at 13 and 17 years compared
27
28

1 to 59 years for the subject property. These errors of omission resulted in a report that lacked
2 credibility (S.R. 1-1(a), 1-1(b),1-4(a), 2-1(a), and 2-2(b)(viii));

3 (c) Respondent failed to reconcile the quality and quantity of data available and
4 analyzed within the approaches used. The indicated value of the Cost Approach was a
5 significantly different from the indicated value in the Sales Comparison Approach. Respondent
6 failed to provide an explanation for this significant difference between the two approaches to
7 value. This was attributed to various errors and omissions in the Cost Approach. Respondent
8 failed to apply any physical depreciation, as the subject property was a 59-year old home with an
9 effective age of 30 years. Respondent failed to consider external depreciation for the subject
10 property's potential external influences. The carport was erroneously reported at 3,000 square
11 feet. The "as is" value of the site improvements indicated no cost figures and Respondent failed to
12 explain this omission. Respondent falsely stated that the Sales Comparison Approach was
13 supported by the Cost Approach (S.R. 1-1(a), 1-1(b), 1-4(a), 1-4(b)(ii)(iii), 1-6(a), 1-6(b), 2-1(a),
14 and 2-2(b)(viii).)

15 **COUNT THREE**

16 **FAILURE TO CHANGE ADDRESS**

17 35. Respondent violated the California Code of Regulations regarding personal
18 information or contact change requirement. Respondent failed to notify and submit written notice
19 to OREA of any change in name, residence or business telephone number, residence address, or
20 business name or address within ten days of the change (California Code of Regulations 3527).

21 **COUNT FOUR**

22 **FAILURE TO COOPERATE**

23 36. During or about from September 2008 to June 2009, Respondent failed to facilitate an
24 investigation of illegal or unethical activities. Respondent failed to respond or comply with
25 multiple requests for complete and accurate copies of his appraisal reports, workfiles, and all
26 supporting documentation and data to the Office of Real Estate Appraisers (OREA) (California
27 Business and Professional Code 11328)

28 ///

PRAYER

1
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Director of the Office of Real Estate Appraisers issue a
4 decision

5 1. Revoking the Right to Renew License Number AL026055 issued to Leodegario
6 Ortega.

7 2. Ordering Leodegario Ortega to pay the Director of the Office of Real Estate
8 Appraisers \$ 1045.85 for the costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 11409;

10 3. Ordering Leodegario Ortega to pay the Director of the Office of Real Estate
11 Appraisers a fine pursuant to section 11316, subdivision (a); and

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

13
14 DATED: 3/29/12

Original Signed

ELIZABETH SEATERS

Acting Chief of Enforcement

Office of Real Estate Appraisers

State of California

Complainant