

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

In the Matter of the Accusation Against:

ERIC A. FROHLICH
1158 26th Street, #579
Santa Monica, CA 90403
Real Estate Appraiser License No.
AG028756

Respondent.

Case No. C110120-01; C110124-01

OAH No. 2012070803

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of the Office of Real Estate Appraisers, as its Decision in this matter.

This Decision shall become effective on 2-15-12

It is so ORDERED 1-15-12

Original Signed

FOR THE DIRECTOR OF THE OFFICE OF REAL
ESTATE APPRAISERS

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
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Attorneys for Complainant

7
8 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. C110120-01; C110124-01

11 **ERIC A. FROHLICH**
12 1158 26th Street, #579
Santa Monica, CA 90403
13 Real Estate Appraiser License No.
AG028756

OAH No. 2012070803
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15 Respondent.

16
17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
21 (Complainant), brought this Accusation solely in her official capacity as Chief of Enforcement for
22 Complainant and is represented in this matter by Kamala D. Harris, Attorney General of the State
23 of California, by William D. Gardner, Deputy Attorney General.

24 2. Respondent Eric A. Frohlich (Respondent) is represented in this proceeding by
25 attorney Eric Troff, whose address is: Baer & Troff, 35 N. Lake Avenue, #670, Pasadena, CA
26 91101.

27 3. On or about August 5, 2010, the Office of Real Estate Appraisers issued Real Estate
28 Appraiser License No. AG028756 to Eric A. Frohlich (Respondent). The Real Estate Appraiser

1 License was in full force and effect at all times relevant to the charges brought in Accusation
2 Case Nos. C110120-01 and C110124-01 and will expire on August 4, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation Case Nos. C110120-01 and C110124-01 was filed before the Director of
5 the Office of Real Estate Appraisers (Director) and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 June 13, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. When deemed by the Director to be in the public interest, Complainant has the
9 authority under Business and Professions Code section 11315.5 to enter into a settlement related
10 to administrative allegations of violations of the regulations governing the conduct of licensed
11 appraisers and appraisal management companies. The administrative allegations associated with
12 Accusation Case Nos. C110120-01 and C110124-01 against Respondent are incorporated herein
13 by reference.

14 6. A copy of Accusation Case Nos. C110120-01 and C110124-01 is attached as exhibit
15 A and incorporated herein by reference.

16 ADVISEMENT AND WAIVERS

17 7. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation Case Nos. C110120-01 and C110124-01. Respondent has
19 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
20 Settlement and Disciplinary Order.

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

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1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Director may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Certified Residential Appraiser License No. AG028756
6 issued to Eric A. Frohlich (Respondent) is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for two (2) years on the following terms and conditions.

8 **ORDER OF PUBLIC REPROVAL**

9 1. **Public Reproval.** Respondent is issued a Public Reproval.

10 **STANDARD TERMS AND CONDITIONS OF PROBATION**

11 2. **Obey All Laws.** Respondent shall comply with all federal, state and local laws, and
12 conform to the minimum guidelines set forth under the Uniform Standards of Professional
13 Appraisal Practice (USPAP), and all other laws and regulations pertaining to real estate
14 appraisers.

15 3. **Appraisal Log/Work Samples.** Commencing on the effective date of the Decision
16 and Order and continuing for a period of 24 months, Respondent shall maintain a log of all
17 appraisals Respondent performs on the Log of Appraisal Experience (REA 3004) form.
18 Respondent shall submit a complete and accurate copy of the log of all appraisals completed each
19 six months. Each six month log shall be submitted to the Office of Real Estate Appraisers within
20 30 days following the end of each six month period. Respondent understands that the Office of
21 Real Estate Appraisers has the option to select work samples for review from each submitted six
22 month appraisal log.

23 4. **Monitoring Costs.** Respondent shall comply with the Office of Real Estate
24 Appraisers probation compliance monitoring program, including payment of costs incurred by
25 OREA in reviewing appraisals, in an amount not to exceed \$250 per six month period. The
26 monitoring cost will be waived for any six month monitoring period in which OREA elects not to
27 select work samples for review.

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1 **5. Personal Appearances.** Respondent shall, during the period of probation, appear in
2 person at interviews/meetings as directed by the Office of Real Estate Appraisers or its designated
3 representatives, provided such notification is accomplished in a timely manner.

4 **6. Comply With Probation.** Respondent shall fully comply with the terms and
5 conditions of the probation imposed by the Director of the Office of Real Estate Appraisers and
6 shall cooperate fully with representatives of the Office in its monitoring and investigation of
7 Respondent's compliance with the terms and conditions of probation.

8 **7. Monitoring.** Respondent shall be subject to, and shall permit, monitoring and
9 investigation of Respondent's professional practice. Such monitoring and investigation shall be
10 conducted by representatives of the Office of Real Estate Appraisers.

11 **8. Active License Status.** Respondent shall at all times maintain an active license
12 status with the Office of Real Estate Appraisers, including during any period of suspension. If the
13 license is expired at the time the Decision and Order of the Director of the Office of Real Estate
14 Appraisers becomes effective, the license must be renewed within 30 days of the effective date of
15 the Decision and Order.

16 **9. Tolling of Probation for Out-of-State Residence/Practice.** In the event
17 Respondent should leave California to reside or practice outside this state, Respondent must
18 notify the Office of Real Estate Appraisers, in writing, of the dates of departure and return.
19 Periods of non-California residency or practice outside the state shall not apply to reduction of the
20 probationary period, or of any suspension. No obligation imposed herein, including requirements
21 to file written reports, reimburse the Office costs, or make restitution to consumers, shall be
22 suspended or otherwise affected by such periods of out-of-state residency or practice except at the
23 written direction of the Office of Real Estate Appraisers.

24 **10. Violation of Probation.** If Respondent violates probation in any respect, the
25 Director of the Office of Real Estate Appraisers, after giving Respondent notice and an
26 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
27 stayed. If an accusation or a petition to revoke probation is filed against Respondent during

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1 probation, the Director shall have continuing jurisdiction until the matter is final, and the period
2 of probation shall be extended until the matter is final.

3 **11. Completion of Probation.**

4 Notwithstanding the continued effect of the Public Repeal, upon successful completion of
5 probation, Respondent's license will be fully restored.

6 **12. Cost Reimbursement.** Respondent shall reimburse the Office of Real Estate
7 Appraisers the sum of \$5,000.00 for its investigation and prosecution costs. Said payment may
8 be made under a payment plan as follows: a sum of not less than \$500.00 shall be made within
9 30 days of the effective date of the Decision and Order. Thereafter, payments of not less than
10 \$750.00 shall continue to be made on a quarterly basis. Full and final payment must be received
11 by OREA within 18 months of the effective date of the Decision and Order. Payment shall be
12 made to the Real Estate Appraisers Regulation Fund, c/o Office of Real Estate Appraisers, 1102
13 Q Street, Suite 4100, Sacramento, California 95811 by check or money order and shall indicate
14 on its face the notation: OREA Case Nos. C110120-01 and C110124-01. Failure to reimburse the
15 Office of Real Estate Appraiser's costs of its investigation and prosecution shall constitute a
16 violation of the probationary order.

17 **13. Uniform Standards of Professional Appraisal Practice Course /Examination.**

18 Respondent shall take and pass an Office of Real Estate Appraisers approved 15-hour basic
19 education course on the Uniform Standards of Professional Appraisal Practice within 6 months of
20 the date the Decision and Order of the Director of the Office of Real Estate Appraisers is final.
21 The course must be The Appraisal Foundation's National USPAP Course (or its equivalent as
22 determined solely by the Appraiser Qualifications Board (AQB) Course Approval Program), and
23 must be taught by an AQB Certified USPAP Instructor who is also a Certified Residential or
24 Certified General appraiser in good standing with OREA. The course may be in a classroom
25 setting or online, provided that the content satisfies the requirements specified by the AQB.
26 Respondent must submit proof of successful completion of the course within 6 months following
27 the date the Decision and Order of the Director of the Office of Real Estate Appraisers is final.

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1 Respondent understands that it is his responsibility to ensure that the course meets all of the
2 requirements listed above and to apply for, schedule, and make all arrangements to take the
3 course.

4 **14. Automatic Suspension.** Failure to comply with the education requirements as set
5 forth in this Stipulated Settlement and Disciplinary Order shall result in an automatic suspension
6 of Respondent's real estate appraiser license.

7 **15. Minimum Education Requirements.** Educational courses imposed as a term or
8 condition of probation by the Director of Real Estate Appraisers may not be credited towards
9 Respondent's continuing education requirements required for renewal of Respondent's real estate
10 appraiser license.

11 **16. Payment of Outstanding Fine.** Respondent further acknowledges and agrees to pay
12 a fine pursuant to Business and Professions Code section 11316(a) and California Code of
13 Regulations, title 10, section 3721(a), for the sum of \$10,000.00. Said payment may be made
14 under a payment plan as follows: a sum of not less than \$1000.00 shall be made within 30 days
15 of the effective date of the Decision and Order. Thereafter, payments of not less than \$1500.00
16 shall continue to be made on a quarterly basis. Full and final payment must be received by
17 OREA within 18 months of the effective date of the Decision and Order. Payment shall be
18 made to the Real Estate Appraisers Regulation Fund, c/o Office of Real Estate Appraisers, 1102
19 Q Street, Suite 4100, Sacramento, California 95811 by check or money order and shall indicate
20 on its face the notation: OREA Case Nos. C110120-01 and C110124-01. Respondent shall also
21 submit the *Remittance Notification* (REA 2032) form with payment, which will be provided by
22 the Office upon acceptance of this Stipulation and Waiver. If full payment is not received by the
23 Office by the date due as noted in the invoice, a 10 percent late penalty shall be added to the
24 unpaid balance and interest will accrue on the unpaid balance at the pooled money investment
25 rate in effect at that time, until the full amount is paid. If the unpaid balance plus 10 percent late
26 penalty and interest on the unpaid balance are not received by the Office within 30 days
27 thereafter, my appraiser license may be automatically suspended without further notice from the
28 Office and will not be eligible for reinstatement prior to receipt of the full payment of the unpaid

Exhibit A

Accusation Case Nos. C110120-01 and C110124-01

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
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13 **Santa Monica, CA 90403**

A C C U S A T I O N

14 **Real Estate Appraiser License No.**
AG028756

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about February 27, 2002, the Director of the Office of Real Estate Appraisers
23 issued Real Estate Appraiser License Number AG028756 to Eric A. Frohlich (Respondent). The
24 Real Estate Appraiser License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on August 4, 2012, unless renewed.

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1 **JURISDICTION**

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

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

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

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

14 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
15 surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with
16 a disciplinary action during the period within which the license may be renewed, restored,
17 reissued or reinstated.

18 **STATUTORY PROVISIONS**

19 7. Business and Professions Code section 11319 states:

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

25 **REGULATORY PROVISIONS**

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

27 "Every holder of a license under this part shall conform to and observe the Uniform
28 Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto

1 as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards
2 are herein incorporated into these regulations by reference as if fully set forth herein."

3 9. California Code of Regulations, title 10, section 3702, states in pertinent part:

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

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

10
11 "(3) Every holder of a license to practice real estate appraisal, Registrant, Controlling

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

15 10. Title 10, California Code of Regulations, section 3705, states:

16 "(a) Every appraisal report subject to the Uniform Standards of Professional Appraisal
17 Practice upon final completion shall bear the signature and license number of the appraiser and of
18 the supervising appraiser, if appropriate. The affixing of such signature and number constitute the
19 acceptance by the appraiser and supervising appraiser of full and personal responsibility for the
20 accuracy, content, and integrity of the appraisal under Standards Rules 1 and 2 of USPAP.

21 "(b) Every review appraisal report upon final completion shall bear the signature and
22 license number of the reviewer. The affixing of such signature and number shall constitute
23 acceptance by the reviewer of responsibility for the review under Standard Rule 3 of USPAP.

24 "(c) The license number of the appraiser, and of the review appraiser if the report is a
25 review, shall appear with each signature throughout the appraisal or review document."

26 11. California Code of Regulations, title 10, section 3721 states, in pertinent part:

27 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public
28 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the

1 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
2 capacity requiring a license or Certificate of Registration who has:

3
4 "(6) Violated any provision of USPAP;

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

9

10 **2006 UNIFORM STANDARDS OF**
11 **PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

12 12. USPAP Standards Rule 1-1 states:

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

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

16 (b) not commit a substantial error of omission or commission that significantly affects an
17 appraisal; and"

18

19 13. USPAP Standards Rule 1-2 states:

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

21

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

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

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

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

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

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

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

6

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

9 14. USPAP Standards Rule 1-3 states:

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

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

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

16 15. USPAP Standard Rule 1-4 states:

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

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

21

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

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1 16. USPAP Standards Rule 2-2 states:

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

5

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

8

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

11

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

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

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

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

20 (x) clearly and conspicuously:

21 state all extraordinary assumptions and hypothetical conditions; and

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

23

24 17. USPAP Standards Rule 2-3 states:

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

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

28 — the statements of fact contained in this report are true and correct.

1 — the reported analyses, opinions, and conclusions are limited only by the reported
2 assumptions and limiting conditions and are my personal, impartial, and unbiased professional
3 analyses, opinions, and conclusions.

4 — I have no (or the specified) present or prospective interest in the property that is
5 the subject of this report and no (or the specified) personal interest with respect to the parties
6 involved.

7 — I have no bias with respect to the property that is the subject of this report or to the
8 parties involved with this assignment.

9 — my engagement in this assignment was not contingent upon developing or
10 reporting predetermined results.

11 — my compensation for completing this assignment is not contingent upon the
12 development or reporting of a predetermined value or direction in value that favors the cause of
13 the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence
14 of a subsequent event directly related to the intended use of this appraisal.

15 — my analyses, opinions, and conclusions were developed, and this report has been
16 prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

17 — I have (or have not) made a personal inspection of the property that is the subject
18 of this report. (If more than one person signs this certification, the certification must clearly
19 specify which individuals did and which individuals did not make a personal inspection of the
20 appraised property.)

21 — no one provided significant real property appraisal assistance to the person signing
22 this certification. (If there are exceptions, the name of each individual providing significant real
23 property appraisal assistance must be stated.)

24 18. The USPAP Ethics Rule states:

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

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

3 Compliance with these standards is required when either the service or the appraiser is
4 obligated by law or regulation, or by agreement with the client or intended users, to comply. In
5 addition to these requirements, an individual should comply any time that individual represents
6 that he or she is performing the service as an appraiser.

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

9 Conduct:

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

14 In appraisal practice, an appraiser must not perform as an advocate for any party or issue.

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

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

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

24

25 Record Keeping:

26 An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal
27 consulting assignment. The workfile must include the name of the client and the identity, by
28 name or type, of any other intended users; true copies of any written reports, documented on any

1 type of media; summaries of any oral reports or testimony, or a transcript of testimony, including
2 the appraiser's signed and dated certification; and all other data, information, and documentation
3 necessary to support the appraiser's opinions and conclusions and to show compliance with this
4 Rule and all other applicable Standards, or references to the location(s) of such other
5 documentation.

6 An appraiser must retain the workfile for a period of at least (5) years after preparation or at
7 least two (2) years after final disposition of any judicial proceeding in which testimony was
8 given, whichever period expires last, and have custody of his or her workfile, or make appropriate
9 workfile retention, access, and retrieval arrangements with the party having custody of the
10 workfile.

11 **COST RECOVERY AND FINES**

12 19. 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, registrant, applicant for a certificate of registration, course
16 provider, applicant for course provider accreditation, or a person who, or entity that, acts in a
17 capacity that requires course provider accreditation found to have committed a violation or
18 violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to
19 exceed the reasonable costs of investigation, enforcement, and prosecution of the case."

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

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Misleading and Inaccurate Appraisal Report- Unimproved

3 Lots 29 and 31 in Mountain Oaks, Glendale CA)

4 21. Respondent is subject to disciplinary action under Business and Professions Code
5 section 11319, in conjunction with California Code of Regulations, title 10, sections 3701, 3705
6 and 3721, subdivisions (a)(6) and (a)(7), in that on or about October 5, 2006, Respondent
7 completed a real estate appraisal report, with an effective date of October 5, 2006, for two
8 unimproved lots (Lots 29 and 31) located in the Mountain Oaks area of Glendale, California,
9 which contained errors or omissions, in violation of the provisions of the Uniform Standards of
10 Professional Appraisal Practice (USPAP) as follows:

11 (a) Respondent failed to accurately report and analyze the characteristics of the subject
12 Mountain Oaks neighborhood, which is a designated open space with a rural park-like setting and
13 hiking trails. Respondent erroneously described the neighborhood as a conforming and desirable
14 residential area having condominiums, multiple family residences, and only twenty-five (25)
15 percent vacant land. Respondent incorrectly reported that supporting services, such as public
16 transportation were "good". Respondent also incorrectly described the neighborhood boundaries,
17 identifying Kanan Dune Road as the eastern border even though Kanan Dune Road is
18 approximately forty-one miles west of the neighborhood's border. (USPAP, S.R. 1-1(a), 1-1(b),
19 1-2(e)(i), 1-3(a), 2-2(b)(iii));

20 (b) Respondent failed to accurately report and analyze the characteristics of the subject
21 Mountain Oaks real estate market. There is virtually no market activity, yet Respondent
22 incorrectly reported growth as steady, values as stable, demand and supply in as in balance, and
23 marketing time as 4-6 months. Respondent incorrectly reported that single family homes ranged
24 in age from 1 to 82 years even though no building permits have been issued for new construction
25 in the area since it was annexed by the City of Glendale in the 1950s. Respondent failed to
26 support the reported price range of between \$320,000 and \$1,475,000 for single family homes in
27 the neighborhood. (USPAP, S.R. 1-1(a), 1-1(b), 1-2(e)(i), 1-3(a), 2-2(b)(iii));

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1 (c) Respondent failed to report and analyze characteristics of the subject property that
2 strongly affected value. Respondent incorrectly made the appraisal "as is" and failed to mention
3 that the purported lots being appraised were based on alleged blue prints or plans. Many
4 characteristics assumed to be factual by Respondent were contrary to what existed. Factors
5 affecting the possibility of the subject property being properly subdivided, including slope,
6 topography, proximity to water and sewer lines, and the possibility of necessary zoning changes,
7 were not correctly reported or researched. (USPAP, S.R. 1-1(a), 1-1(b), 1-2(e)(i), 2-2(b)(iii), 2-
8 2(b)(vii));

9 (d) Respondent made inappropriate and unreasonable extraordinary assumptions
10 correlating to the "as is" appraisal. Respondent knew the listed extraordinary assumptions were
11 contrary to what existed at the time of the appraisal and had no reasonable basis upon which to
12 make those extraordinary assumptions. Respondent failed to report that the extraordinary
13 assumptions described might have affected the assignment results. Respondent failed to exercise
14 the necessary diligence of performing sufficient research to determine the viability of
15 extraordinary assumptions. (USPAP, S.R. 1-1(a), 1-1(b), 1-2(f), 1-4(f) and 2-2(b)(x));

16 (e) Respondent failed to correctly identify the appraisal problem for the assignment.
17 Respondent failed to determine the scope of work necessary to prepare a credible report. The
18 scope of work performed in Respondent's appraisal assignment was inadequate. The
19 inappropriate and inadequate scope of work resulted in a misleading report that was not credible.
20 (S.R. 1-1(a), 1-1(b), 1-2(h), 2-2(b)(vii), 2-3, and Scope of Work Rule);

21 (f) Respondent incorrectly identified the zoning for the subject property as "R1", Low
22 Density Residential, when the actual zoning is "ROS III", reserve open space. The subject
23 property has never been zoned R1 and is very unlikely to ever be zoned as such. Respondent
24 incorrectly reported that the lots conformed to the current R1 zoning and represented a legal use.
25 The City of Glendale has not issued new construction permits in the Mountain Oaks area since it
26 annexed the area in the 1950s. (USPAP, S.R. 1-1(a), 1-1(b), 1-3(a) and 2-2(b)(ix));

27 (g) Respondent incorrectly reported that the subject property was zoned R1 and that the
28 development of a single family residential use was the highest and best use. Respondent failed to

1 consider that the subject property would fail the first two tests of highest and best use in that it
2 was not physically possible or legally permissible to develop for single family residential use.
3 (USPAP, S.R. 1-1(a), 1-1(b), 1-3(b) and 2-2(b)(ix));

4 (h) Respondent failed to correctly perform the Sales Comparison Approach. Respondent
5 failed to select and analyze comparables similar to the subject property. All comparables
6 considered in Respondent's analysis were conforming level lots in developed areas. All
7 comparables had streets, curbs, gutters, utilities and water. Site utility was not analyzed, which is
8 significant because the subject property is a sloping site while the comparables were
9 predominantly level. Comparable 1 had a cottage and garage constructed on the site, while
10 Comparables 2 and 3 were sold on the same day with identical buyers, sellers and sale prices.
11 The sole basis for the value opinion was Respondent's flawed Sales Comparison Approach,
12 which resulted in a significant overvaluation. (USPAP, S.R. 1-1(a), 1-1(b), 1-4(a) and 2-
13 2(b)(viii));

14 (i) Based on the violations described in paragraphs (a) through (h), above, Respondent
15 prepared a misleading report that was not credible. (USPAP, S.R. 2-1(a), 2-1(b) and Conduct
16 Section of the Ethics Rule).

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Failure to Maintain and Provide Work File for Appraisal of

19 Unimproved Lots 39, 40 and 41 in Mountain Oaks, Glendale CA)

20 22. Respondent is subject to disciplinary action under Business and Professions Code
21 section 11319, in conjunction with California Code of Regulations, title 10, sections 3701 and
22 3721, subdivisions (a)(6) and (a)(7) in that Respondent violated the Record Keeping section of
23 the USPAP Ethics Rule by failing to maintain a work file for at least five (5) years. The
24 circumstances are that in that in or around October 2006, Respondent prepared a real estate
25 appraisal report for three unimproved lots (Lots 39, 40 and 41) located in the Mountain Oaks area
26 of Glendale, California. On or around January 24, 2011, complainant OREA received a
27 consumer complaint alleging that this appraisal report was misleading and inaccurate in the same
28 manner as the appraisal report discussed above in paragraph 21. On or about February 1, 2011,

1 OREA sent correspondence to Respondent in which it requested that an exact copy of the
2 appraisal report be provided to OREA along with Respondent's entire work file related to the
3 assignment. Respondent failed to provide OREA with a copy of the appraisal or any portion of
4 the work file, claiming that he was not in possession of any such documents because all of his
5 work files had been seized by a storage facility. To date, Respondent has not provided OREA
6 with a copy of the appraisal or any portion of the subject work file.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Director of the Office of Real Estate Appraisers issue a
10 decision:

- 11 1. Revoking or suspending Real Estate Appraiser License Number AG028756, issued to
12 Eric A. Frohlich;
- 13 2. Ordering Eric Frohlich to pay the Director of the Office of Real Estate Appraisers the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 11409;
- 16 3. Ordering Eric Frohlich to pay the Director of the Office of Real Estate Appraisers a
17 fine pursuant to Business and Professions Code section 11316; and
- 18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 6/6/12

Original Signed

21 ELIZABETH SEATERS
22 Chief of Enforcement
23 Office of Real Estate Appraisers
24 State of California
25 *Complainant*

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