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

In the Matter of the Accusation Against: **NATHANIEL H. ACREE** **1027 East 7th, No. 6** **Long Beach, CA 90813** **15626 Rausch Road #A** **City of Industry, CA 91744** **Real Estate Appraiser License No. AL 029820** Respondent.	Case No. C110706-02 **A C C U S A T I O N**

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 August 3, 2005, the Director of the Office of Real Estate Appraisers issued Real Estate Appraiser License Number AL 029820 to Nathaniel H. Acree (Respondent). The Real Estate Appraiser License expired on December 17, 2010, and has not been renewed.

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, in pertinent part:

"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 OREA.".

COST RECOVERY

10. 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, 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.

REGULATORY PROVISIONS

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

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

12. Title 10, California Code of Regulations section 3702 states that:

"(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."

13. Regulation section 3705 states, in pertinent part::

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

...

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

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

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

(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;

...

(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;

15. California Code of Regulations, title 10, section 3722 states:

"(a) A crime or act shall be deemed to be substantially related to the qualifications, functions or duties of an appraiser if, to a substantial degree, it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his/her license. The crimes or acts include, but are not limited to, the following:

(1) Crimes or Acts involving the use of fraud, deceit or dishonesty for profit or gain;

(2) Taking, appropriating or retaining the funds or property of another;

(3) Forging, counterfeiting or altering any instrument affecting the rights or obligations of another;

(4) Evasion of a lawful debt or obligation, including but not limited to tax obligations;

(5) Traffic in any narcotic or controlled substance in violation of law;

(6) Driving under the influence of alcohol or drugs, while conducting business related to real estate appraisals; conviction of felony driving under the influence of alcohol or drugs; or conviction of two or more misdemeanor driving under the influence of alcohol or drugs within any three year period, whether or not while conducting business:

(7) Violation of a relation of trust or confidence;

(8) Theft of personal property or funds;

(9) Crimes or acts of violence or threatened violence against persons or property;

(10) The commission of any crime or act punishable as a sexually related crime, if that crime or act is substantially related to the duties and functions of the licensee; or

(11) Misrepresentation of facts or information on the appraisal license application and/or cheating on the examination.

(b) An act or crime shall be deemed to be substantially related to the functions, duties or qualifications of an appraiser if it involves any willful violation of the Real Estate Appraisers' Licensing and Certification Act or provisions of the Business and Professions Code applicable to appraisers.

(c) The weight to be accorded to a substantially related crime or act under (a) or (b) shall be determined by application of the following standards:

(1) The extent to which the particular acts or omissions have adversely affected other persons, including but not limited to lenders, clients, employers or other persons; and the probability that such adverse effects will continue;

(2) The recency or remoteness in time of the acts or omissions;

(3) The type of license applied for or held by the person involved;

(4) The extenuating or aggravating circumstances surrounding the acts or omissions;

(5) The motivation of the acts or omissions, whether praiseworthy or blameworthy;

(6) The probability that the questioned acts or omissions will continue or be repeated; and

(7) The extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the person involved or other licensed persons.

16. Code section 11328 states, in pertinent part:

"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 OREA.".

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (EFFECTIVE JANUARY 1, 2006)[1]

17. **USPAP 1** states:

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

18. **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 affect the credibility of those results.

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[1] USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report for an appraisal. The July 1, 2006, edition of USPAP (effective July 1, 2006. through December 31, 2007) is applicable to the allegations in this accusation (the report dates are September 1, 2007, October 3, 2007, November 1, 2007 and December 19, 2007,).

19. **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 type and definition of value and intended use of the appraisal, including:

(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 necessary in the assignment; and

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

20. **USPAP Standards Rule 1-3** states:

When necessary for credible assignment results in developing a market values 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.

21. **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 various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemble. 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 thy 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 no-real property items.

22. **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 or suitability of the approaches used to arrive at the value conclusion(s).

23. **USPAP 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."

24. **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 any extraordinary assumption, hypothetical conditions, or limiting condition that directly affect the appraisal and indicate its impact on value.

25. **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 uses 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 identify 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; and state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;

(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 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.

26. **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.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the

client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

27. **The USPAP Ethics Rule** states:

ETHICS RULE

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 these standards is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. 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 and any supplemental standards agreed to by the appraiser in accepting the assignment.

An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

In appraisal practice, an appraiser must not perform as an advocate for 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 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 compensation for performing an assignment when it is contingent upon:

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

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UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (EFFECTIVE JANUARY 1, 2008)[2]

28. **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.

29. **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;

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[2] USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report for an appraisal. The January 1, 2008, edition of USPAP (effective January 1, 2008, through December 31, 2009) is applicable to the allegations in this accusation (the report date is February 1, 2008).

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

(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.

30. **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.

31. **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.

32. **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).

33. **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.

34. **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.

35. **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.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

36. **The USPAP ETHICS RULE** states:

ETHICS RULE

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.

NIPA AVENUE PROPERTY

37. On or about September 1, 2007, Respondent completed an appraisal of the property located at 8861 Nipa Avenue, California City, California (Nipa Avenue property) and prepared a real estate appraisal report. The report contained numerous errors or omissions.

FIRST CAUSE FOR DISCIPLINE

(Violation of USPAP Provisions)

38. Respondent is subject to disciplinary action under Business and Profession Code sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10, section 3701, for violating Business and Professions Code section 11324, California Code of Regulations, title 10, section 3721, subdivision (a)(2), (a)(6), (a)(7) and section 3500 in that Respondent failed to conform to and observe the provisions of USPAP as follows:

a. Respondent failed to arrive at a value conclusion that was consistent with the reported definition of market value. The Nipa Avenue Property being appraised as well as those being analyzed as comparables did not have typically motivated buyers and sellers; the straw buyers in the transactions were not well informed or well advised and acting in their own best interests; and the properties were not exposed to the open market. Competing homes that were exposed to the open market sold for significantly lower prices than Respondent's value opinion. Respondent admitted numerous times, during a criminal investigation, on separate occasions in recorded conversations with Kern County detectives that he intentionally selected higher priced sales to

support the contract prices in order to get additional appraisal assignments. (S.R. 1-1(a), (b), 1-2(c), and 2-2(b)(v);

b. Respondent failed to accurately report and analyze the characteristics of the subject neighborhood. Respondent incorrectly reported housing trends had increasing values and that supply and demand were in balance. Respondent failed to report and analyze the significant effect of the numerous bank-owned and bank-influenced properties on the market at the time of the appraisal. Respondent admitted in recorded conversations with detectives that he knew the market was declining at the time. Respondent incorrectly reported that the neighborhood was "Built-Up" over seventy five percent (75%) when satellite photos indicated that a much larger percentage of lots in the area were vacant. (S.R. 1-1(a), (b), 1-2(e)(i), 1-3(a) and 2-2(b)(iii);

c. Respondent failed to support the value conclusion in the Sales Comparison Approach. Within the subject development, Respondent considered only straw buyer sales that were not exposed to the open market. Respondent failed to consider the lender influenced sales and listings that were exposed to the open market through MLS[3] and dominated the resale market within the development. Respondent admitted numerous times on separate occasions in recorded conversations with detectives that he intentionally selected higher priced sales to support the contract prices in order to get additional appraisal assignments. (S.R. 1-1(a), (b), 1-4(a), 1-6(a), and 2-2(b)(viii);

d. Respondent falsely certified the following in each of the reports: "[I] was not required to report a predetermined value or direction in value that favors the cause of the client or any related party…I did not base the appraisal report on a requested minimum valuation, a specific valuation." Respondent reported predetermined values. Respondent allowed the lender and seller to influence the assignment. Comparable provided by the client and seller were analyzed. Numerous sales of similar properties that were exposed to the market in the immediate

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[3] MLS (Multiple Listing Service) is a suite of services that enables real estate brokers to establish contractual offers of compensation (among brokers), facilitates cooperation with other broker participants, accumulates and disseminates information to enable appraisals, and is a facility for the orderly correlation and dissemination of listing information to better serve broker's clients, customers and the public.

neighborhood were available for analysis but were not considered due to the significantly lower prices. (S.R. 1-1(b), 2-3, Conduct Section of the Ethics Rule, Management Section of the Ethics Rule);

e. Respondent was not competent to appraise in California City. He had no experience appraising in this desert region. Respondent admitted that he did not have sufficient data for the area (Competency Rule); and

f. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 38 (a)-(e), inclusive, as though set forth fully, Respondent prepared misleading reports. Respondent reported predetermined values in the assignments. Respondent admitted numerous times on separate occasions in recorded conversations with detectives that he intentionally selected higher priced sales to support the contract price in order to get additional appraisal assignments from the builder (Conduct Section of the Ethic Rule, S.R. 2-1(a)).

SECOND CAUSE FOR DISCIPLINE

(Misleading and Inaccurate Appraisal Report)

39. Respondent is subject to disciplinary action under sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, sections 3701, 3705, and 3721, subdivisions (a)(2), (a)(4), (a)(6) and (a)(7) in that on the Nipa Avenue Property, Respondent's appraisal report contained numerous errors or omissions in violation of the USPAP, as more fully set forth in paragraphs 38 (a)-(f). Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 39 (a)-(f), inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

40. Respondent is subject to disciplinary action under sections 11313 and 11319, 11325 subdivision (a), in conjunction with California Code of Regulations, title 10, sections 3705, subdivision (a), and 3721, subdivisions (a)(2), (a)(4) and (a)(7) in that on the Nipa Avenue Property appraisal report, Respondent committed acts involving dishonesty, fraud, deceit with the intent to benefit himself or another, or to injure another. Said acts violated provisions of the Real Estate Appraisers' Licensing and Certification Law, and adopted regulations which determine the

parameters of appraisal work. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 38 (a)-(f), inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Provide Workfile)

41. Respondent is subject to disciplinary action under Business and Profession Code section 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10, section 3721, subdivision (a)(7), for violating section 11328, in that Respondent failed to submit, upon OREA's request on or about August 23, 2011, and again on August 29, 2011, a copy of the appraisal report, workfile, and all supporting documentation for the Nipa Avenue Property to the OREA which Respondent is to keep in accord with USPAP, Ethic Rule, Record Keeping Section. When no response was received, a more specific letter was sent quoting California Business and Professions Code, Division 4, Part 3, Section 11328. This letter was sent via certified mail on October 25, 2011, and warned that no response within ten (10) days could lead to significant discipline, including revocation. Respondent failed to provide the required documentation violating California Business and Professions Code , Division 4, Part 3, Section 11328. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 37-38, inclusive, as though set forth fully.

HICKORY DRIVE PROPERTY

42. On or about February 1, 2008, Respondent completed an appraisal of the property located at 8629 Hickory Drive, California City, California (Hickory Drive Property) and prepared a real estate appraisal report. The report contained numerous errors or omissions.

FIFTH CAUSE FOR DISCIPLINE

(Violation of USPAP Provisions)

43. Respondent is subject to disciplinary action under Business and Profession Code sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10, section 3701, for violating Business and Professions Code section 11324, California Code of Regulations, title 10, section 3721, subdivision (a)(2), (a)(6), (a)(7) and section 3500 in that Respondent failed to conform to and observe the provisions of USPAP as follows:

a. Respondent failed to arrive at a value conclusion that was consistent with the reported definition of market value. The Hickory Drive Property being appraised as well as those being analyzed as comparables did not have typically motivated buyers and sellers; the straw buyers in the transactions were not well informed or well advised and acting in their own best interests; and the properties were not exposed to the open market. Competing homes that were exposed to the open market sold for significantly lower prices than Respondent's value opinion. Respondent admitted numerous times on separate occasions in recorded conversations with detectives that he intentionally selected higher priced sales to support the contract prices in order to get additional appraisal assignments. (S.R. 1-1(a), (b), 1-2(c), and 2-2(b)(v);

b. Respondent failed to accurately report and analyze the characteristics of the subject neighborhood. Respondent incorrectly reported housing trends had increasing values and that supply and demand were in balance. Respondent failed to report and analyze the significant effect of the numerous bank-owned and bank-influenced properties on the market at the time of the appraisal. Respondent admitted in recorded conversations with detectives that he knew the market was declining at the time. Respondent incorrectly reported that the neighborhood was "Built-Up" over seventy five percent (75%) when satellite photos indicated that a much larger percentage of lots in the area were vacant. (S.R. 1-1(a), (b), 1-2(e)(i), 1-3(a) and 2-2(b)(iii);

c. Respondent failed to support the value conclusion in the Sales Comparison Approach. Within the subject development, Respondent considered only straw buyer sales that were not exposed to the open market. Respondent failed to consider the lender influenced sales and listings that were exposed to the open market through MLS and dominated the resale market within the development. Respondent admitted numerous times on separate occasions in recorded conversations with detectives that he intentionally selected higher priced sales to support the contract prices in order to get additional appraisal assignments. (S.R. 1-1(a), (b), 1-4(a), 1-6(a), and 2-2(b)(viii);

d. Respondent falsely certified the following in each of the reports: "[I] was not required to report a predetermined value or direction in value that favors the cause of the client or any related party…I did not base the appraisal report on a requested minimum valuation, a specific

valuation." Respondent reported predetermined values. Respondent allowed the lender and seller to influence the assignment. Comparable provided by the client and seller were analyzed. Numerous sales of similar properties that were exposed to the market in the immediate neighborhood were available for analysis but were not considered due to the significantly lower prices. (S.R. 1-1(b), 2-3, Conduct Section of the Ethics Rule, Management Section of the Ethics Rule);

e. Respondent was not competent to appraise in California City. He had no experience appraising in this desert region. Respondent admitted that he did not have sufficient data for the area (Competency Rule); and

f. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 43(a)-(e), inclusive, as though set forth fully, Respondent prepared misleading reports. Respondent reported predetermined values in the assignments. Respondent admitted numerous times on separate occasions in recorded conversations with detectives that he intentionally selected higher priced sales to support the contract price in order to get additional appraisal assignments from the builder (Conduct Section of the Ethic Rule, S.R. 2-1(a)).

SIXTH CAUSE FOR DISCIPLINE

(Misleading and Inaccurate Appraisal Report)

44. Respondent is subject to disciplinary action under sections 11313 and 11319, in conjunction with California Code of Regulations, title 10, sections 3701, 3705, and 3721, subdivisions (a)(2), (a)(4), (a)(6) and (a)(7) in that on the Hickory Drive Property, Respondent's appraisal report contained numerous errors or omissions in violation of the USPAP, as more fully set forth in paragraphs 43 (a)-(f). Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 43 (a)-(f), inclusive, as though set forth fully.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonest Acts)

45. Respondent is subject to disciplinary action under sections 11313 and 11319, 11325 subdivision (a), in conjunction with California Code of Regulations, title 10, sections 3705, subdivision (a), and 3721, subdivisions (a)(2), (a)(4) and (a)(7) in that on the Hickory Drive

Property appraisal report, Respondent committed acts involving dishonesty, fraud, deceit with the intent to benefit himself or another, or to injure another. Said acts violated provisions of the Real Estate Appraisers' Licensing and Certification Law, and adopted regulations which determine the parameters of appraisal work. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 43 (a)-(f), inclusive, as though set forth fully.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Provide Workfile)

46. Respondent is subject to disciplinary action under Business and Profession Code section 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10, section 3721, subdivision (a)(7), for violating section 11328, in that Respondent failed to submit, upon OREA's request on or about August 23, 2011, and again on August 29, 2011, a copy of the appraisal report, workfile, and all supporting documentation for the Nipa Avenue Property to the OREA which Respondent is to keep in accord with USPAP, Ethic Rule, Record Keeping Section. When no response was received, a more specific letter was sent quoting California Business and Professions Code, Division 4, Part 3, Section 11328. This letter was sent via certified mail on October 25, 2011, and warned that no response within ten (10) days could lead to significant discipline, including revocation. Respondent failed to provide the required documentation violating California Business and Professions Code , Division 4, Part 3, Section 11328. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 42-43, inclusive, as though set forth fully.

NINETH CAUSE FOR DISCIPLINE

(Convictions of Crimes)

47. Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721, subdivision (a), and section 3722, subdivisions (a) and (b), in that Respondent was convicted of crimes substantially related to the functions, duties or qualifications of an appraiser, as follows:

a. On or about December 19, 2011, after pleading *Nolo Contendere*, Respondent was

convicted of two felony counts of violating Penal Code section 487, subdivision (A) [grand theft/ property] in the criminal proceeding entitled *The People of the State of California v. Nathaniel Acree* (Super Ct. Kern County, 2011, No. BF139102D). Respondent was sentenced to two (2) years in jail. The circumstances surrounding the conviction are that on or about November 11, 2008, Respondent was involved a fraudulent real estate straw buyer scheme in California City. An arrest warrant in the amount of $340,000 was issued against the Respondent. Respondent admitted that he performed many appraisals for a builder who was going to suffer huge financial losses unless he could "get rid of these homes[4]". Respondent helped the builder from the financial loss. Respondent admitted that he was eventually able to "hit" the contract price on every home he appraised. Respondent admitted that the most difficult assignment was the Calhoun Drive Property which he appraised in January of 2007. Respondent admitted that once he had one comparable at a high price, it was much easier to "hit the numbers" on the rest of the homes. Respondent admitted to each detective separately that he was aware that similar homes in the area were selling for $100,000 or below what he was appraising his properties for.

b. On or about October 4, 1993, after pleading *Nolo Contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [theft] in the criminal proceeding entitled *The People of the State of California v. Nathaniel Acree* (Super Ct. Kern County, 1993, No. 1040113). Respondent was placed on probation. The circumstances surrounding the conviction are that on or about September of 1993, Respondent stole certain items.

TENTH CAUSE FOR DISCIPLINE

(Procured a Certificate by Fraud or Misrepresentation)

48. Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721, subdivision (a), and section 3722, subdivisions (a) and (b), in that on or about December 1, 2002, Respondent procured a certificate[5] by fraud or misrepresentation, by

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[4] These properties included, but was not limited to, the Hickory Avenue Property and the Nipa Avenue Property.

[5] Real Estate Appraiser License

failing to disclose his October 4, 1993 conviction case against him, on his initial application for licensure. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 47, subparagraph (b), as thought set forth fully. In addition, Respondent signed under penalty of perjury, under the laws of the State of California, that the forgoing was true and correct, on his application for licensure.

PRAYER

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

1. Revoking or suspending Real Estate Appraiser License Number AL 029820, issued to Nathaniel H. Acree

2. Ordering Nathaniel H. Acree 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 Nathaniel H. Acree 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: 11/20/12

Original Signed

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

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