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

In the Matter of the Accusation Against: **TIM R. HARDIN** **29222 Rancho Viejo Road, Suite 207** **San Juan Capistrano, CA 92675** **Real Estate Appraiser License No. AL032381** Respondent.	Case Nos. C081023-10, C090130-05 and 100818-03 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 10, 2011, Bruce Crandall, acting solely in his official capacity as the Supervising Property Appraiser Investigator, acting on behalf of the Office of Real Estate Appraisers (Complainant), filed an Accusation in Case Nos. C081023-10, C090130-05 and 100818-03 against Tim R. Hardin (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about November 12, 2003, the Director of the Office of Real Estate Appraisers (Director) issued Real Estate Appraiser License No. AL032381 to Respondent. The Real Estate Appraiser License expired on November 11, 2009, and has not been renewed.

3. On or about November 10, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation in Case Nos. C081023-10, C090130-05 and 100818-03, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant

to Title 10, California Code of Regulations, section 3527, is required to be reported and maintained with the Director. Respondent's address of record was and is: 29222 Rancho Viejo Road, Suite 207, San Juan Capistrano, CA 92675.

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

5. On a date subsequent to service, the aforementioned documents were returned by the U.S. Postal Service marked "Not Deliverable as Addressed, Unable to Forward." The address on the documents was the same as the address on file with the Director. Respondent failed to maintain an updated address with the Director and the Director has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of the Accusation in Case Nos. C081023-10, C090130-05 and 100818-03.

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

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

9. Pursuant to its authority under Government Code section 11520, the Deputy Director finds Respondent is in default. The Deputy Director will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Director's offices regarding the allegations contained in the Accusation for

Case Nos. C081023-10, C090130-05 and 100818-03, finds that the charges and allegations in the Accusation are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Tim R. Hardin has subjected his Real Estate Appraiser License No. AL032381 to discipline.

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

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

a. California Business and Professions Code section 11328.

ORDER

IT IS SO ORDERED that Real Estate Appraiser License No. AL032381, heretofore issued to Respondent Tim R. Hardin, is revoked.

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

This Decision shall become effective on May 11, 2012.

It is so ORDERED May 11, 2012

Original Signed

FOR THE DEPUTY DIRECTOR OF THE OFFICE
OF REAL ESTATE APPRAISERS

20597148.DOC
DOJ Matter ID:SF2012204312

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

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

In the Matter of the Accusation Against: **TIM R. HARDIN** 29222 Rancho Viejo Road, Suite 207 San Juan, CA 92675 **Residential Appraiser License No. AL032381** Respondent.	**Case Nos.** C 081023-10, C 090130-05 and C 100818-03 **A C C U S A T I O N**

Complainant alleges:

FINDINGS OF FACT

1. Bruce Crandall, acting on behalf of the Office of Real Estate Appraisers (Complainant) brings this Accusation solely in his official capacity as a Supervising Property Appraiser/Investigator for Complainant.

2. On or about November 12, 2003, the Director of the Office of Real Estate Appraisers (OREA) issued Residential Appraiser License Number AL032381 to Tim R. Hardin (Respondent). The Residential Appraiser License was in full force and effect at all times relevant to the charges brought herein and expired on November 11, 2009.

/ / /

/ / /

3. On or about December 6, 2010, Seetal Patel, an employee of the Office of Real Estate Appraisers, sent by Certified and First Class Mail a demand letter to Respondent's last address of record with the Director, which was and is:

29222 Rancho Viejo Road, Suite 207

San Juan, CA 92675

4. On or about January 14, 2011, the aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed."

5. On or about January 7, 2011, Ms. Patel sent by Certified and First Class Mail a second demand letter to Respondent's address, as identified in 3. above.

6. On or about January 14, 2011, Complainant received the return receipt from the certified letter sent to Respondent on January 7, 2011, but Respondent failed to submit the information as specified in the January 7, 2011 letter.

7. On or about January 18, 2011, Ms Patel telephoned Respondent at his last home telephone number of record [(949) 481-1788], but this number was no longer in service. Ms. Patel also telephoned Respondent's last business telephone number of record [(949) 276-4166] but was directed to voicemail. Ms. Patel left a message on this voicemail requesting that Respondent return her call. Respondent never responded to the voicemail message left on January 18, 2011.

8. On or about February 7, 2011, Ms. Patel sent by Certified and First Class Mail a final demand letter to Respondent's address as identified in 3. above

9. Complainant received a signed return receipt from the February 7, 2011 letter, but Respondent failed to submit the information as specified in the February 7, 2011 letter.

JURISDICTION

10 This Accusation is brought before the Director of the Office of Real Estate Appraisers, under the authority of the following laws.

11. Business and Professions Code section 11313 states in pertinent part:

The duty of enforcing and administering provisions of the Real Estate Appraisers' Licensing and Certification Law is vested in the director. The director shall adopt and enforce rules and

regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

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.

13. 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.

14. Business and Professions Code section 11328 states:

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

REGULATORY PROVISIONS

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

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

16. California Code of Regulations, title 10, 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.

17. 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:

. . . .

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

. . . .

(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;

CAUSE FOR DISCIPLINE

(Failure to Respond to or Facilitate in an Investigation of Alleged Uniform Standards of Professional Appraisal Practice (USPAP) Violations)

18. Respondent is subject to disciplinary action under California Business and Professions Code section 11328 in that Respondent failed to respond to or facilitate an investigation of alleged violations of the Uniform Standards of Professional Appraisal Practice (USPAP) by failing to submit a true copy of the appraisal report and any supporting documentation to the OREA, when requested by Complainant as described in 3. – 9. above, and as required by section 11328 of the California Business and Professions Code.

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 Residential Appraiser License Number AL032381, issued to Tim R. Hardin.

2. Ordering Tim R. Hardin to pay the Director of the Office of Real Estate Appraisers a fine pursuant to section 11316, subdivision (a); and

3. Taking such other and further action as deemed necessary and proper.

Original Signed

DATED: November 10, 2011

Bruce Crandall
Supervising Property Appraiser Investigator
Office of Real Estate Appraisers
State of California
Complainant