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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. C110210-05

11 **AMY CHENG**  
12 **1932 5th Avenue**  
13 **Oakland, CA 94606**

**A C C U S A T I O N**

14 Real Estate Appraiser License No.  
AL032931

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 Chief of Enforcement for  
21 Complainant.

22 2. On or about January 23, 2004, the Director of the Office of Real Estate Appraisers  
23 issued Real Estate Trainee License Number AT032931 to Amy Cheng (Respondent). On or  
24 about June 8, 2007, Trainee License Number AT032931 for Amy Cheng was upgraded to Real  
25 Estate Appraiser License Number AL032931. Real Estate Appraiser License Number AL032931  
26 expired on January 22, 2008, and was renewed on January 23, 2008. Real Estate Appraiser  
27 License Number AL032931 expired on January 22, 2010, and was not renewed until February 14,  
28 2012. The license will expire on February 13, 2014.

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

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

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

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

21  
22 **MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE**

23 7. Business and Professions Code section 11319 states:

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



1 (3) Every holder of a license to practice real estate appraisal, Registrant, Controlling  
2 Person of an Appraisal Management Company, or person or entity in a capacity requiring a  
3 license or Certificate of Registration shall be required to demonstrate by his or her conduct that he  
4 or she possesses the qualifications of honesty candor, integrity and untrustworthiness.

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

6 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public  
7 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the  
8 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a  
9 capacity requiring a license or Certificate of Registration who has:

10  
11 "(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or  
12 another, or to injure another;

13  
14 "(4) Done any act which if done by the holder of a license to practice real estate appraisal  
15 would be grounds for revocation or suspension of such license;

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

18 "(6) Violated any provision of USPAP;

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

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

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

25 "(1) That the profession of real estate appraisal is vested with a fiduciary relationship of  
26 trust and confidence as to clients, lending institutions, and both public and private guarantors or  
27 insurers of funds in federally-related real estate transactions and that the qualifications of honesty,  
28

1 candor, integrity, and trustworthiness are directly and substantially related to and indispensable to  
2 the practice of the appraisal profession;

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

8 "(3) Every holder of a license to practice real estate appraisal, Registrant, Controlling  
9 Person of an Appraisal Management Company, or person or entity acting in a capacity requiring a  
10 license or Certificate of Registration shall be required to demonstrate by his or her conduct that he  
11 or she possesses the qualifications of honesty, candor, integrity, and trustworthiness.

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

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

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

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

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

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

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

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

26 "(6) Driving under the influence of alcohol or drugs, while conducting business related to  
27 real estate appraisals; conviction of felony driving under the influence of alcohol or drugs; or  
28

1 conviction of two or more misdemeanor driving under the influence of alcohol or drugs within  
2 any three year period, whether or not while conducting business:

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

4 "(8) Theft of personal property or funds;

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

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

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

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

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

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

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

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

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

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

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

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

26 16. Business and Professions Code section 11320, states, in pertinent part:  
27  
28

1 "No person shall engage in federally related real estate appraisal activity governed by this  
2 part or assume or use the title of or any title designation or abbreviation as a licensed appraiser in  
3 this state without first obtaining a license as defined in Section 11302."  
4

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 17. Respondent is subject to disciplinary action under California Code of Regulations,  
8 title 10, section 3702(a)(3), title 10, section 3721 (a)(2) and California Code of Regulations, title  
9 10 section 3721 (a)(5) in that Respondent knowingly misled the Office of Real Estate Appraisers  
10 by submitting fabricated work samples for review with her upgrade application that were not the  
11 true and correct copies that were submitted to the clients. Further, when the Respondent had the  
12 opportunity to tell the investigator the truth in a telephone conference held on February 10, 2011,  
13 that the work samples submitted were not true and correct copies, she did not. Instead,  
14 Respondent stated there were software problems with her computer, or she had problems  
15 transferring the data to her reports. As a result, Respondent failed to demonstrate by her  
16 presentation that she possesses the qualifications of honesty, integrity and trustworthiness. The  
17 circumstances are as follows:

18 18. On or about December 7, 2009, Respondent submitted to the Office of Real Estate  
19 Appraisers an application to upgrade her license from Residential (AL) to Certified Residential  
20 (AR). On December 10, 2009, Respondent was sent a deficiency letter from OREA requesting  
21 additional information including hours of appraisal experience, based on education and proof of  
22 Associates Degree or higher.

23 19. On December 7, 2010, OREA received a response from Respondent submitting the  
24 requested information. On December 21, 2010, OREA sent the Respondent a letter requesting  
25 work samples for review. The work samples requested were from Respondent's Log of Appraisal  
26 Experience and included property located at 1808 Walnut Street, Oakland California, report dated  
27 July 20, 2009, and 2863 Grand Vista, Oakland, California, report dated October 28, 2009. These  
28 items were received on or about January 24, 2011.



1 imposed by any governmental agency including OREA, with respect to your activities as a  
2 licensee of the agency?" The Respondent answered the question by checking the box marked  
3 "No."

4 27. Respondent's answer to question eight is contradicted by her true professional  
5 disciplinary history. Specifically, Respondent had previously been disciplined in the OREA  
6 Complaint Matter C060330-02 wherein the findings stated Respondent had committed acts  
7 involving dishonesty, fraud or deceit with the intent to benefit her by forging the signature of her  
8 supervising appraiser, on multiple appraisal reports that were completed from January 19, 2006  
9 through February 27, 2006.

10 28. Respondent's answer to question eight is further contradicted by a disciplinary action  
11 from the Department of Real Estate (DRE). Specifically, on September 5, 2001, Respondent  
12 submitted to DRE an initial application for real estate salesperson license. On March 5, 2002, The  
13 Department of Real Estate issued the Respondent a Statement of Issues denying the issuance of a  
14 real estate sales person license, which was based upon the grounds that she failed to disclose on  
15 her application the February 1992 conviction for petty theft which involved stealing a leather  
16 jacket from a Nordstrom store. After an administrative hearing, a decision dated September 16,  
17 2002, was issued denying Respondent's license application. The Judge noted Respondent did not  
18 present as a good citizen with an abiding commitment to truthfulness. The decision stated  
19 Respondent's demeanor while testifying shows a tendency towards evasion, exaggeration and  
20 fabrication. After being adopted by the Department of Real Estate, the decision became effective  
21 on November 6, 2002.

22 29. Respondent's answer to question eight is further contradicted by previous disciplinary  
23 action in that Respondent submitted an application to DRE for a real estate sales person license  
24 on or about January 29, 2003. Respondent again failed to disclose on her license application the  
25 fact of her February 1992 conviction for petty theft. On August 28, 2003, DRE filed a Statement  
26 of Issues involving the act of failure to disclose a criminal conviction on an application for a  
27 license. On November 18, 2003, DRE filed a dismissal of the case as the Respondent withdrew  
28 her application for a real estate salesperson license.



**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 AL032931, issued to Amy Cheng

2. Ordering Amy Cheng 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 Amy Cheng 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: 10/1/12

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

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accusation.rtf