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OFFICE OF THE DIRECTOR
OF REAL ESTATE APPRAISERS

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

10
11 In the Matter of the Accusation Against:

Case No. C120412-05

12 **JOSEPH H. COUCH**
13 **4084 Meadowview Drive**
Castro Valley, CA 94546

ACCUSATION

14 **Appraiser License No. AL0033379**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about May 4, 2007, the Director of the Office of Real Estate Appraisers issued
23 Appraiser License Number AL0033379 to Joseph H. Couch (Respondent). The Appraiser
24 License expired on March 16, 2012. On June 21, 2012, the Appraiser License was renewed
25 effective March 17, 2012 and will expire on March 16, 2014.

26 **JURISDICTION**

27 3. This Accusation is brought before the Director of the Office of Real Estate Appraisers
28 (Director), under the authority of the following laws. All section references are to the Business

1 and Professions Code unless otherwise indicated.

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

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

7 "(1) Been convicted of a felony or any crime which is substantially related to the
8 qualifications, functions, or duties of the profession of real estate appraisal;

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

11 "(3) Been convicted for a commission or solicitation of a criminal act which involved or
12 threatened bodily harm to others;

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

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

17 "(6) Violated any provision of USPAP;

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

22 "(8) Been prohibited from participating in the affairs of an insured depository institution
23 pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. Section 1829.); or

24 "(9) Submitted a financial instrument to OREA for the payment of any fee, fine or penalty
25 which instrument is subsequently dishonored by the issuing institution due to an act or omission
26 of that person.

27 "(b) Before issuing any private or public reproof or denying, suspending, or revoking any
28 license or Certificate of Registration issued or issuable under the provisions of the Real Estate

1 Appraisers Licensing and Certification Law or these regulations, the Office shall proceed as
2 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
3 the Government Code (the Administrative Procedure Act) and the Office shall have all the
4 powers granted therein.

5 "(c) Any person issued a citation containing a fine or order of abatement may contest the
6 citation by filing a written notice with the Office within 30 calendar days that states with
7 specificity the basis of the appeal. Upon receipt of such notice, the Office shall proceed as
8 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
9 the Government Code (the Administrative Procedure Act) and the Office shall have all the
10 powers granted therein."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 6. Government Code section 402, subdivision (a) states:

22 “(a) Every person who maliciously or for commercial purposes uses or allows to be used
23 any reproduction or facsimile of the Great Seal of the State in any manner whatsoever is guilty of
24 a misdemeanor.”

25 7. Business and Professions Code section 11409, subdivision (a) states:

26 "Except as otherwise provided by law, any order issued in resolution of a disciplinary
27 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that
28 requires a license under this part, registrant, applicant for a certificate of registration, course

1 provider, applicant for course provider accreditation, or a person who, or entity that, acts in a
2 capacity that requires course provider accreditation found to have committed a violation or
3 violations of statutes or regulations relating to real estate appraiser practice to pay a sum not to
4 exceed the reasonable costs of investigation, enforcement, and prosecution of the case."

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

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

11 UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)

12 (EFFECTIVE JANUARY 1, 2012)

13 9. USPAP Ethics Rule, states:

14 An appraiser must promote and preserve the public trust inherent in appraisal practice by
15 observing the highest standards of professional ethics.

16 An appraiser must comply with USPAP when obligated by law or regulation, or by
17 agreement with the client or intended users. In addition to these requirements, an individual
18 should comply any time that individual represents that he or she is performing the service as an
19 appraiser.

20 CAUSE FOR DISCIPLINE

21 (FRAUD/DISHONESTY)

22 10. Respondent is subject to disciplinary action under California Code of Regulations,
23 title 10, section 3721, subdivisions (a)(2), (a)(4), (a)(6) and (a)(7), Government Code section
24 402(a) and the USPAP Ethics Rule in that he altered his Real Estate Appraiser License.
25 Respondent's license expired on March 16, 2012. However, on or about March 15, 2012,
26 Respondent provided Streetlinks, a registered Appraisal Management Company, with an altered
27 license which showed an expiration date of March 16, 2014. Respondent altered the official
28 license containing the signature of the Director of the Office of Real Estate Appraisers and the

1 Great Seal of the State of California by changing the issuance date and the expiration date. The
2 altered license contained audit number 131327, a number associated with the license of another
3 appraiser.

4 DISCIPLINE CONSIDERATIONS

5 11. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges that on or about April 6, 2010, in a prior disciplinary action against Joseph
7 H. Couch before the Office of Real Estate Appraisers, Respondent entered into a Stipulation and
8 Waiver with the Office of Real Estate Appraisers as a result of his conviction of violating
9 California Penal Code section 422 (threaten crime with intent to terrorize), a misdemeanor. In the
10 Stipulation and Waiver, Respondent agreed to provide Quarterly Reports to the Office of Real
11 Estate Appraisers. That decision is now final and is incorporated by reference as if fully set forth.

12 PRAYER

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

- 16 1. Revoking or suspending Real Estate Appraiser License Number AL0033379, issued
17 to Joseph H. Couch;
- 18 2. Ordering Joseph H. Couch to pay the Director of the Office of Real Estate Appraisers
19 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 11409;
- 21 3. Ordering Joseph H. Couch to pay the Director of the Office of Real Estate Appraisers
22 a fine pursuant to Business and Professions Code section 11316; and
- 23 4. Taking such other and further action as deemed necessary and proper.

24 DATED: 6/22/12

Original Signed

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

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