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

9 In the Matter of the Accusation Against:

Case No. C120412-05

10 **JOSEPH H. COUCH**  
11 **4084 Meadowview Drive**  
12 **Castro Valley, CA 94546**

**DEFAULT DECISION AND ORDER**

**Appraiser License No. AL0033379**

[Gov. Code, §11520]

13  
14 Respondent.

15  
16 FINDINGS OF FACT

17 1. On or about June 22, 2012, Elizabeth Seaters, in her official capacity as the Chief of  
18 Enforcement of the Office of Real Estate Appraisers (Complainant), filed Accusation No.  
19 C120412-05 against Joseph H. Couch (Respondent) before the Director of the Office of Real  
20 Estate Appraisers. (Accusation attached as Exhibit A.)

21 2. On or about May 4, 2007, the Director of the Office of Real Estate Appraisers  
22 (Director) issued Appraiser License No. AL0033379 to Respondent. The Appraiser License  
23 expired on March 16, 2012, and has not been renewed.

24 3. On or about June 25, 2012, Respondent was served by Certified and First Class Mail  
25 copies of the Accusation No. C120412-05, Statement to Respondent, Notice of Defense, Request  
26 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
27 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of  
28

1 Regulations, section 3527, is required to be reported and maintained with the Director.

2 Respondent's address of record was and is:

3 4084 Meadowview Drive, Castro Valley, CA 94546.

4 4. On or about August 22, 2012, Respondent was served by Certified and First Class  
5 Mail copies of the Accusation No. C120412-05, Statement to Respondent, Notice of Defense,  
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
7 and 11507.7) at Respondent's business address, and at Respondent's address of record which,  
8 pursuant to Title 10, California Code of Regulations, section 3527, is required to be reported and  
9 maintained with the Director. Respondent's address of record was and is:

10 4084 Meadowview Drive, Castro Valley, CA 94546.

11 Respondent's business address is:

12 P.O. Box 581471, Modesto, CA 95358.

13 5. Service of the Accusation was effective as a matter of law under the provisions of  
14 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
15 124.

16 6. On or about July 24, 2012 and October 25, 2012 the U.S. Postal Service returned its  
17 "Domestic Return Receipt" indicating that the aforementioned documents were received.

18 7. Government Code section 11506 states, in pertinent part:

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

24 8. Respondent failed to file a Notice of Defense within 15 days after service upon him  
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
26 C120412-05.

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

28 (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.



1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

3 This Decision shall become effective on 12-7-12.

4 It is so ORDERED 11-8-12

5  
6 **Original Signed**

7 FOR THE DIRECTOR OF THE OFFICE OF REAL  
8 ESTATE APPRAISERS

9 default decision\_LIC.rtf  
10 DOJ Matter ID:SF2012401645

11 Attachment:  
12 Exhibit A: Accusation

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 CHAR SACHSON  
Deputy Attorney General  
4 State Bar No. 161032  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5558  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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** **ACCUSATION**  
13 **4084 Meadowview Drive**  
**Castro Valley, CA 94546**  
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**

25 ELIZABETH SEATERS  
26 Chief of Enforcement  
27 Office of Real Estate Appraisers  
28 State of California  
*Complainant*

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