

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

In the Matter of the of the
Real Estate Appraiser License of:

James May,

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Director of the Office of Real Estate Appraisers, as its Decision in this matter.

This Decision shall become effective on

Dec. 31, 2012.

It is so ORDERED

Nov. 27, 2012

Original Signed

RENEE FULWIDER, DEPUTY DIRECTOR,
OFFICE OF REAL ESTATE APPRAISERS

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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

10
11
12 In the Matter of the Accusation Against:

13 **JAMES J. MAY**
8810-C Jamacha Blvd., #140
14 Spring Valley, CA 91977

15 **Residential License No. AL034266**

16 Respondent.

Case No. C081208-01

OAH No. 2012 06 0821

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19
20 **STIPULATED SURRENDER OF**
LICENSE AND ORDER

21 In the interest of a prompt and speedy resolution of this matter, consistent with the public
22 interest and the responsibility of the Director of the Office of Real Estate Appraisers the parties
23 hereby agree to the following Stipulated Surrender of License and Order which will be submitted
24 to the Director for approval and adoption as the final disposition of the Accusation.

25 **PARTIES**

26 1. Elizabeth Seaters acting on behalf of the Office of Real Estate Appraisers
(Complainant), brought this action solely in her official capacity as Chief of Enforcement and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Lauro A. Paredes, Deputy Attorney General.

2. James J. May (Respondent) is representing himself in this proceeding and has chosen
not to exercise his right to be represented by counsel.

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. C081208-01, agrees that cause exists for discipline and hereby surrenders his Residential
4 License No. AL034266 for the Director's formal acceptance.

5 10. Respondent understands that by signing this stipulation he enables the Director to
6 issue his order accepting the surrender of his Residential License without further process.

7 **RESERVATION**

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Director of the Office of Real Estate
10 Appraisers or other professional licensing agency is involved, and shall not be admissible in any
11 other criminal or civil proceeding.

12 **CONTINGENCY**

13 12. This stipulation shall be subject to approval by the Director of the Office of Real
14 Estate Appraisers or his designee. Respondent understands and agrees that counsel for
15 Complainant and the staff of the Office of Real Estate Appraisers may communicate directly with
16 the Director and staff of Office of Real Estate Appraisers regarding this stipulation and surrender,
17 without notice to or participation by Respondent. By signing the stipulation, Respondent
18 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
19 prior to the time the Director considers and acts upon it. If the Director fails to adopt this
20 stipulation as the Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of
21 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
22 the parties, and the Director shall not be disqualified from further action by having considered
23 this matter.

24 13. The parties understand and agree that facsimile copies of this Stipulated Surrender of
25 License and Order, including facsimile signatures thereto, shall have the same force and effect as
26 the originals.

27 14. This Stipulated Surrender of License and Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
3 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
4 executed by an authorized representative of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Director may, without further notice or formal proceeding, issue and enter the following
7 Order:

8 **ORDER**

9 IT IS HEREBY ORDERED that Residential License No. AL034266, issued to Respondent
10 James J. May, is surrendered and accepted by the Director of the Office of Real Estate
11 Appraisers.

12 1. The surrender of Respondent's Residential License and the acceptance of the
13 surrendered license by the Director shall constitute the imposition of discipline against
14 Respondent, a record of the discipline and shall become a part of Respondent's license history
15 with the Office of Real Estate Appraisers.

16 2. Respondent shall lose all rights and privileges as a Real Estate Appraiser in California
17 as of the effective date of the Director's Decision and Order.

18 3. Respondent shall cause to be delivered to the Director his pocket license and, if one
19 was issued, his wall certificate on or before the effective date of the Decision and Order.

20 4. If Respondent ever applies for licensure or any certificate or registration as an
21 appraisal management company to the Office of Real Estate Appraisers, or petitions for
22 reinstatement in the State of California, the Director shall treat it as a new application for
23 licensure or certification. Respondent must comply with all the laws, regulations and procedures
24 for licensure in effect at the time the application or petition is filed, and all of the charges and
25 allegations contained in Accusation No. C081208-01 shall be deemed to be true, correct and
26 admitted by Respondent when the Director determines whether to grant or deny the application or
27 petition.

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Director of the Office of Real Estate Appraisers.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. C081208-01

1 KAMALA D. HARRIS
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3 JAMES M. LEDAKIS
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9 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
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11 In the Matter of the Accusation Against:

Case No. C081208-01

12 **JAMES J. MAY**
13 **8810-C Jamacha Blvd., #140**
14 **Spring Valley, CA 91977**
Residential License No. AL034266.

A C C U S A T I O N

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 Acting Chief of
21 Enforcement of the Office of Real Estate Appraisers.

22 2. On or about February 16, 2005, the Director of the Office of Real Estate Appraisers
23 issued Residential License Number AL034266 to James J. May (Respondent). Said license was
24 closed and renewed yearly from June 3, 2006 to June 3, 2010, when it expired.

25 **JURISDICTION**

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

1 11. Regulation 3702 states, in pertinent part:

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

3 "(1) That the profession of real estate appraisal is vested with a fiduciary
4 relationship of trust and confidence as to clients, lending institutions, and both
5 public and private guarantors or insurers of funds in federally-related real estate
6 transactions and that the qualifications of honesty, candor, integrity, and
7 trustworthiness are directly and substantially related to and indispensable to the
8 practice of the appraisal profession.

9 "...

10 "(3) Every holder of a license to practice real estate appraisal shall be
11 required to demonstrate by his or her conduct that he or she possess the
12 qualifications of honesty, candor, integrity and trustworthiness.

13 "..."

14 12. Regulation 3705(a) states:

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

20 13. Regulation 3721 provides, in pertinent part, that the Director of OREA may issue a
21 citation, order of abatement, assess a fine or private or public reproof, suspend or revoke a
22 license of any person who has violated any provision of USPAP or Real Estate Appraisers'
23 Licensing and Certification Law or done any act involving dishonesty, fraud or deceit with the
24 intent to benefit himself or another, or to injure another.

25 USPAP

26 14. The Uniform Standards of Professional Appraisal Practice (USPAP) includes the
27 following provisions.

28 15. *The Conduct Section of the Ethics Rule* provides, in pertinent part, that an appraiser
must perform assignments ethically and competently, in accordance with Uniform Standards of
Professional Appraisal Practice (USPAP). The Rule also provides that an appraiser must perform
assignments with impartiality, objectivity, and independence, and without accommodation of
personal interests. An appraiser must not perform as an advocate for any party or issue, or accept

1 an assignment that includes the reporting of predetermined opinions and conclusions. An
2 appraiser must not communicate results in a misleading or fraudulent manner. An appraiser must
3 not use or communicate a misleading or fraudulent report or knowingly permit an employee or
4 other person to communicate a misleading or fraudulent report.

5 16. *The Scope of Work Rule* provides, in pertinent part, that an appraiser must identify
6 the problem to be solved, determine and perform the scope of work necessary to develop credible
7 assignment results, and disclose the scope of work in the report.

8 17. USPAP Standards Rule (SR) 1-1 states:

9 In developing a real property appraisal, an appraiser must:

10 (a) be aware of, understand, and correctly employ those recognized methods
11 and techniques that are necessary to produce a credible appraisal;

12 (b) not commit a substantial error of omission or commission that
13 significantly affects an appraisal; and

14

15 18. SR 1-2(e)(i) states in pertinent part:

16 That in developing a real property appraisal, an appraiser must identify the
17 characteristics of the property that are relevant to the type and definition of value
18 and intended use of the appraisal, including its location and physical, legal, and
19 economic attributes.

20 19. SR 1-4 states in pertinent part:

21 In developing a real property appraisal, an appraiser must collect, verify, and
22 analyze all information necessary for credible assignment results.

23 (a) When a sales comparison approach is necessary for credible assignment results,
24 an appraiser must analyze such comparable sales data as are available to indicate a value
25 conclusion.

26

27 20. SR 1-5(a) states in pertinent part:

28 In developing a real property appraisal, when the value of the opinion to be
developed is market value, an appraiser must, if such information is available to
the appraiser in the normal course of business, analyze all agreements of sale,
options, or listings of the subject property current as of the effective date of the

1 appraisal; and analyze all sales of the subject property that occurred with the three
2 (3) years prior to the effective date of the appraisal.

3 21. SR 2-1(a)(b) states in pertinent part:

4 Each written or oral real property appraisal report must:

5 (a) clearly and accurately set forth the appraisal in a manner that will not be
6 misleading;

7 (b) contain sufficient information to enable the intended users of the appraisal to
8 understand the
9 report properly; and

10 22. SR 2-2-(b)(iii)(viii) (ix) states in pertinent part:

11 That the content of a Summary Appraisal Report must be consistent with the
12 intended use of the appraisal, and, at a minimum:

13 ".....
14 "(iii) summarize information sufficient to identify the real estate involved in
15 the appraisal, including the physical and economic property characteristics
16 relevant to the assignment;

17 ".....
18 "(viii) summarize the information analyzed, the appraisal methods and
19 techniques employed, and the reasoning that supports the analyses, opinions and
20 conclusions; exclusion of the sales comparison approach, cost approach, or
21 income approach must be explained;

22 ".....
23 "(ix) state the use of the real estate existing as of the date of value and the
24 use of the real estate reflected in the appraisal; and, when an opinion of highest
25 and best use was developed by the appraiser, summarize the support and the
26 rationale for that opinion.

27 **COST RECOVERY**

28 23. Section 11409(a) of the Code provides that any order issued in resolution of a
disciplinary proceeding may direct a licensee 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.

1
2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Violations of USAP for Westlake Drive Properties, San Marcos, California)**

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5 24. Between May 3, 2008 and May 7, 2008, Respondent completed appraisal reports
6 for the properties located at 207 Westlake Drive No. 1, San Marcos, California; 215 Westlake
7 Drive No. 1, San Marcos, California; 215 Westlake Drive No. 3, San Marcos, California; 215
8 Westlake Drive No. 8, San Marcos, California; and 213 Westlake Drive No. 5, San Marcos,
9 California. The reports contain certain errors or omissions, listed below, in violation of the
10 Uniform Standards of Professional Appraisal Practice (USPAP) and the California Business and
11 Professions Code, Division 4, listed as follows:

12
13 a. Respondent reported that a purchase agreement for the pending sale of the subject
14 property was reviewed but failed to disclose the negative aspects of the contract. The contract
15 was highly atypical in that: (1) The buyers did not have the right to inspect the units; (2) the
16 transaction was described as an "As-Is Where-Is sale," specifically excluding the buyer from
17 remedies against the builder/developer. These unusual contractual terms should have been
18 reported as they placed the borrower and lender at severe risk (Conduct Section of the Ethics
19 Rule, S.R. 1-1(a), (b) 1-5(a), 2-1(a), (b), and 2-2(b)(viii));

20
21 b. Respondent failed to accurately report the characteristics of the subject
22 neighborhood and the subject property. Respondent incorrectly reported condominium unit
23 housing trends had stable values and that supply and demand were balanced. Respondent
24 incorrectly reported that the predominant sale prices in the neighborhood were \$375,000.
25 Developer sales of \$375,000 included significant concessions. Respondent failed to report and
26 analyze the significant effect of the numerous bank owned properties on the market in the subject
27

1 property development at the time of the appraisal (S.R. 1-1(a), (b), 1-2(e)(i), 2-1(a), (b), 2-
2 2(b)(iii), and the Conduct and Scope of Work Sections of the Ethics Rule);

3 c. Respondent failed to report and analyze the characteristics of the subject properties
4 and the development. Respondent reported the zoning to be "R-1," with a description of "single
5 family residence." The actual zoning was R-3-6, and was described as medium density
6 residential. Respondent reported the project site size to be "Primary Residential," rather than
7 describing the 3.62 acre site. Respondent incorrectly reported that less than ten percent of the
8 properties were non-owner occupied and that all of the condominium conversions had been sold
9 by the developer. The developer made a bulk sale of the problematic unsold inventory to Equity
10 Finders LLC. The subject properties and all of Respondent's comparables in the Sales
11 Comparison Approach were part of the unsold inventory that were being marketed to straw
12 buyers (S.R. 1-1(a), (b), 1-2(e)(i), 2-1(a), (b), 2-2(b)(iii), 2-2(b)(ix), and the Conduct Section of
13 the Ethics Rule);

14
15 d. Respondent used inappropriate sales in the Sales Comparison Approach.
16 Respondent considered only sales arranged by Equity Finders LLC. Units offered on MLS from
17 parties other than Equity Finders LLC were not analyzed. Competing units outside of the subject
18 property development did not support the inflated sale prices influenced by Equity Finders LLC.
19 The non-arms-length transactions analyzed were higher priced than the peak prices found in the
20 development in 2005 and 2006, in spite of the strongly declining marketplace heavily influenced
21 by the sale of lender owned properties (S.R. 1-1(a), (b), 1-4(a), 2-1(a), (b), and 2-2(b)(viii));

22
23 e. Based on a through d above, Respondent prepared misleading reports (Conduct
24 Section of the Ethics Rule, S.R. 1-1(a), (b), and 2-1(a), (b)); and
25
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1 f. Respondent failed to provide a true and correct copy of the appraisal reports and
2 associated work files when requested. Respondent failed to cooperate with the investigation
3 (Business and Professions Code Section 11328).
4

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Violations of USAP for North Escondido Blvd Properties, Escondido, California)**
7

8 25. Between May 1, 2008 and May 10, 2008, Respondent completed individual
9 appraisal reports for the following converted condominium units located at 1350 North Escondido
10 Boulevard, Escondido, California: Unit No.'s 2, 5, 50, 53, 63, and 69. The reports contained
11 certain errors or omissions, listed below, in violation of the Uniform Standards of Professional
12 Appraisal Practice (USPAP) and the California Business and Professions Code, Division 4, listed
13 as follows:
14

15 a. Respondent failed to accurately report the characteristics of the subject
16 neighborhood and the subject property. Respondent incorrectly reported condominium unit
17 housing trends had stable values and that supply and demand were balanced. According to
18 published sources, sale prices of condominiums declined during the time represented in the
19 appraisal. Developer sales of \$310,000 included significant concessions. Respondent failed to
20 report and analyze the effect of the bank owned properties on the market in the subject property
21 development at the time of the appraisal. These listings had asking prices of \$138,255 to
22 \$150,000 and strongly influenced the marketplace. Of the 24 attached homes sold on MLS
23 between December, 2007 and the time of the appraisal in the market area of the subject property,
24 all were bank owned properties (S.R. 1-1(a), (b), 1-2(e)(i), 2-1(a), (b), 2-2(b)(iii), and the Conduct
25 Section of the Ethics Rule);
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DATED: 3/27/12

Original Signed

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

SD2012703139
accusation.rtf