

ORDER

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2 IT IS SO ORDERED that Real Estate Appraiser License No. AL034469, heretofore issued  
3 to Respondent James H. Ankenbruck, is revoked.

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

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9 This Decision shall become effective on 7-12-13.

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11 It is so ORDERED 6-11-13

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13 **Original Signed**

14 FOR THE DIRECTOR OF THE OFFICE OF REAL  
15 ESTATE APPRAISERS

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23 Attachment: Exhibit A: Accusation

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

In the Matter of the Accusation Against:  
**JAMES H. ANKENBRUCK**  
**P.O. Box 282**  
**Merced, CA 95341**  
**5220 Tip Top Road**  
**Mariposa, CA 95338**  
**Real Estate Appraiser License No.**  
**AL034469**  
  
Respondent.

Case No. C110503-02  
OAH No. C110503-02  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 20, 2013, Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Office of Real Estate Appraisers (Complainant), filed Accusation No. C110503-02 against James H. Ankenbruck (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)
2. On or about August 5, 2005, the Director of the Office of Real Estate Appraisers (Director) issued Real Estate Appraiser License No. AL034469 to Respondent. The Real Estate

1 Appraiser License was in full force and effect at all times relevant to the charges brought in  
2 Accusation No. C110503-02 and will expire on June 29, 2014, unless renewed.

3 3. On or about March 22, 2013, Respondent was served by Certified and First Class  
4 Mail copies of Accusation No. C110503-02, Statement to Respondent, Notice of Defense,  
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
6 and 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of  
7 Regulations, section 3527, is required to be reported and maintained with the Director.

8 Respondent's addresses of record was and is:

9 P.O. Box 282  
10 Merced, CA 95341

11 In addition, Respondent was also served with the aforementioned documents on his  
12 prior address of record which was:

13 5220 Tip Top Road  
14 Mariposa, CA 95338

15 4. Service of the Accusation was effective as a matter of law under the provisions of  
16 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
17 124.

18 5. On or about April 12, 2013, the aforementioned documents that were served on the  
19 Tip Top Road address were returned by the U.S. Postal Service marked "Returned to Sender,"  
20 after noting three attempted delivery dates of "3/25," "4/2," and "4/12." On or about April 9,  
21 2012; Respondent signed a return receipt of the Accusation package that was sent via certified  
22 mail to P.O. Box 282, which return receipt was received by the Office of the Attorney General on  
23 April 11, 2013, confirming receipt of the Accusation package by Respondent. As of June 7,  
24 2013, Respondent has not submitted a Notice of Defense or otherwise requested a hearing in  
25 order to present a defense to the charges contained in the Accusation.

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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 Accusation No. C110503-02.

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 Director finds Respondent is in default. The 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 Accusation No. C110503-02, finds that the charges and allegations in Accusation No. C110503-02, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 11409, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$ 3,410.32 as of June 7, 2013.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent James H. Ankenbruck has subjected his Real Estate Appraiser License No. AL034469 to discipline.
- 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Director of the Office of Real Estate Appraisers is authorized to revoke Respondent's Real Estate Appraiser License based upon the following violations alleged in the

1 Accusation which are supported by the evidence contained in the Default Decision Evidence  
2 Packet in this case, as follows:

3 a. Respondent failed to complete an appropriate scope of work necessary to produce a  
4 credible report and failed to identify the intended use of the report in violation of Regulation  
5 sections 3701, 3702(a)(1) and (a)(3) and USPAP S.R. 1-2(h) and USPAP S.R. 2-2(b)(vii) and the  
6 Scope of Work Rule.

7 b. Respondent failed to adequately describe the subject properties or otherwise provide  
8 sufficient information to enable the intended users of the appraisal to understand the report in  
9 violation of Regulation sections 3701, 3702(a)(1) and (a)(3) and USPAP S.R. 1-1(a), S.R. 1-1(b),  
10 S.R. 1-2(e)(i), S.R. 2-1(b) and S.R. 2-2 (b) (iii).

11 c. Respondent failed to report the zoning restriction of the subject properties in violation  
12 of Regulation sections 3701, 3702(a)(1) and (a)(3) and USPAP S.R. 2-2 (b)(iii) and the Conduct  
13 Section of the Ethics Rule.

14 d. Respondent failed to analyze the highest and best use of the subject properties in a  
15 creditable manner in violation of Regulation sections 3701, 3702(a)(1) and (a)(3) and USPAP  
16 S.R. 1-1 (a), S.R. 1-3(b), S.R. 2-1(b), S.R. 2-2 (b)(ix), and Conduct Section of the Ethic Rule.

17 e. Respondent failed to value the properties or otherwise analyze the sales used in his  
18 report in a creditable manner in violation of Regulation sections 3701, 3702(a)(1) and (a)(3) and  
19 USPAP S.R. 1-1(a), S.R. 1-1(b), S.R. 1-4 (a), S.R. 2-1 (a), and the Competency Rule.

20 f. Respondent failed to cooperate with the Office of Real Estate Appraisal's  
21 investigation and issued false statements, stating: the "appraisal [is] not mine" and the subject  
22 properties were "not appraised by me" in violation of Code section 11328 and the Conduct  
23 Section of the Ethics Rule.

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

10  
11 In the Matter of the Accusation Against:  
12 **JAMES H. ANKENBRUCK**  
13 P.O. Box 282  
14 Merced, CA 95314  
15 **Residential Appraiser License No.**  
**AL034469**  
16 Respondent.

Case No. C110503-02

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

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about August 5, 2005, the Director of OREA issued Residential Appraiser  
24 License Number AL034469 to James H. Ankenbruck (Respondent). The Residential Appraiser  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on June 29, 2014, unless renewed.

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JURISDICTION

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

4. Code section 11313 requires OREA to adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of the Real Estate Appraisers' Licensing and Certification law.

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

6. 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.

7. Code section 11328 states, in pertinent part:

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 OREA.

FINES

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

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1 (6) Violated any provision of USPAP;

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

7 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

8 **(EFFECTIVE JULY 1, 2006)**

9 14. USPAP Standard Rule 1 states, in pertinent part:

10 In developing a real property appraisal, an appraiser must identify the problem to be solved,  
11 determine the scope of work necessary to solve the problem, and correctly complete research and  
12 analyses necessary to produce a credible appraisal.

13 15. USPAP Standards Rule 1-1 states:

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

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

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

19 16. USPAP Standards Rule 1-2 states:

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

21 (a) identify the client and other intended users;

22 ....

23 (e) identify the characteristics of the property that are relevant to the type and  
24 definition of value and intended use of the appraisal, including:

25 (i) its location and physical, legal, and economic attributes;

26 ....

27 (h) determine the scope of work necessary to produce credible assignment results  
28 in accordance with the SCOPE OF WORK RULE.

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17. USPAP Standards Rule 1-3 states:

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(b) develop an opinion of the highest and best use of the real state.

18. USPAP Standards Rule 1-4 states:

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

19. USPAP Standard 2 states:

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

20. USPAP Standards Rule 2-1 states:

Each written or oral real property appraisal report must:

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

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

21. USPAP Standards Rule 2-2 states:

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

....

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal, and at a minimum:

....

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

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(vii) summarize the scope of work used to develop the appraisal;

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

22. The Ethics Rule of USPAP provides, in part:

To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The first three sections apply to all appraisal practice, and all four sections apply to appraisal practice performed under STANDARDS 1 through 10.

Compliance with USPAP is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.

Conduct:

An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

In appraisal practice, an appraiser must not perform as an advocate for any party or issue.

An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.

An appraiser must not communicate results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.

1 23. The Competency Rule in USPAP states, in pertinent part:

2 Prior to accepting an assignment or entering into an agreement to perform  
3 any assignment, an appraiser must properly identify the problem to be addressed  
4 and have the knowledge and experience to complete the assignment competently; or  
5 alternatively, must:

- 6 1. disclose the lack of knowledge and/or experience to the client before  
7 accepting the assignment;
- 8 2. take all steps necessary or appropriate to complete the assignment  
9 competently; and
- 10 3. describe the lack of knowledge and/or experience and the steps taken  
11 to complete the assignment competently in the report.

12 24. The Scope of Work Rule<sup>1</sup> in USPAP states:

13 For each appraisal, appraisal review, and appraisal consulting assignment, an  
14 appraiser must:

- 15 1. identify the problem to be solved;
- 16 2. determine and perform the scope of work necessary to develop  
17 credible assignment results; and
- 18 3. disclose the scope of work in the report

19 An appraiser must properly identify the problem to be solved in order to  
20 determine the appropriate scope of work. The appraiser must be prepared to  
21 demonstrate that the scope of work is sufficient to produce credible assignment  
22 results.

23 Problem Identification

24 An appraiser must gather and analyze information about those assignment  
25 elements that are necessary to properly identify the appraisal, appraisal review, or  
26 appraisal consulting problem to be solved.

27 Scope of Work Acceptability

28 The scope of work must include the research and analyses that are necessary  
to develop credible assignment results.

An appraiser must not allow assignment conditions to limit the scope of  
work to such a degree that the assignment results are not credible in the context of  
the intended use.

An appraiser must not allow the intended use of an assignment or client's  
objectives to cause the assignment results to be biased.

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<sup>1</sup> This was a new rule incorporated in July 1, 2006, edition.



1 report properly. Respondent failed to provide adequate details regarding the improvements on the  
2 subject properties, since it only states the building sizes, but not their use, and the report fails to  
3 specify the over all use of the properties, which appear to have been for the production of  
4 concrete products.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Failure to Report the Zoning Restrictions)**

7 28. Respondent is subject to disciplinary action under Regulation section 3721  
8 subdivision (a)(6) and (a)(7), by and through his violation of Regulation sections 3701,  
9 3702(a)(1) and (a)(3) and violation of USPAP S.R. 2-2 (b)(iii) and Conduct Section of the Ethics  
10 Rule in that he failed to report the zoning restriction of the properties. The report states that the  
11 subject properties are zoned industrial, miscellaneous, mixed, but did not report the associated  
12 zoning restrictions.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Properly Analyze the Highest and Best Use)**

15 29. Respondent is subject to disciplinary action under Regulation section 3721  
16 subdivision (a)(6) and (a)(7), by and through his violation of Regulation sections 3701,  
17 3702(a)(1) and (a)(3) and violation of USPAP S.R. 1-1 (a), S.R. 1-3(b), S.R. 2-1(b), S.R. 2-2  
18 (b)(ix), and Conduct Section of the Ethic Rule in that he failed to analyze the highest and best use  
19 of the subject properties in a creditable manner. Respondent's analysis of the highest and best use  
20 section is not based on factual information or any sound reasoning. Respondent concludes that  
21 the highest and best use of the subject properties are industrial; however, the report provides no  
22 factual support, reasoning, or analysis for this conclusion. The report fails to analyze each  
23 property separately, or explain how and why they are being analyzed in conjunction with each  
24 other.

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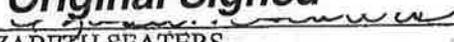
1 was to drive Mr. Ewing out to the properties to do the inspection and take pictures. In fact,  
2 Respondent signed the appraisal report on or about May 22, 2007, and listed both properties on  
3 his log of appraisal experience that was filed with OREA in order to take the real estate appraiser  
4 examination.

5 **PRAYER**

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

- 9 1. Revoking or suspending Residential Appraiser License Number AL 034469, issued to  
10 James H. Ankenbruck;
- 11 2. Ordering Respondent James H. Ankenbruck to pay the Director of the Office of Real  
12 Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant  
13 to Business and Professions Code section 11409;
- 14 3. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 3/20/13

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

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