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3 Office of Real Estate Appraisers
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8 *Attorney for Complainant*

9
10 **BEFORE THE**
11 **DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 Case No. C080429-03

15 **JOEL M. LEWIS**
16 **14054 Driftwood Drive**
17 **Victorville, CA 92395**

18 **DEFAULT DECISION AND ORDER**

19 [Gov. Code, §11520]

20 **Residential Real Estate Appraiser License**
21 **No. AL035752**

22 Respondent.

23 **FINDINGS OF FACT**

24 1. On or about November 29, 2010, Elizabeth Seaters, acting solely in her official
25 capacity as a Supervising Property Appraiser Investigator on behalf of the Office of Real Estate
26 Appraisers (Complainant), filed Accusation No. C080429-03 (Accusation) against Joel M. Lewis
27 (Respondent) before the Director of the Office of Real Estate Appraisers (Director).

28 2. On or about December 9, 2005, the Director issued Residential Real Estate Appraiser
License No. AL035752 to Respondent. The Residential Real Estate Appraiser License was in full
force and effect at all times relevant to the charges brought herein and expired on November 30,
2008.

3. On or about November 30, 2010, Frankie Paige, an employee of the Office of Real
Estate Appraisers, served by Certified and First Class Mail a copy of the Accusation No.
C080429-03, Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with
2 the Director, which was and is:

3 14054 Driftwood Drive
4 Victorville, CA 92395

5 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c).

8 5. On or about December 8, 2010, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Not Deliverable As Addressed Unable to Forward."

10 6. Government Code section 11506 states, in pertinent part:

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 C080429-03.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Director finds
25 Respondent is in default. The Director will take action without further hearing and, based on the
26 evidence on file herein, finds that the allegations in Accusation No. C080429-03 are true.

27 10. The total cost for investigation and enforcement in connection with the Accusation
28 are \$627.60 as of January 17, 2012.

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1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Joel M. Lewis has subjected his
3 Residential Real Estate Appraiser License No. AL035752 to discipline.

4 2. A copy of the Accusation is attached.

5 3. The agency has jurisdiction to adjudicate this case by default.

6 4. The Director is authorized to revoke Respondent's Residential Real Estate Appraiser
7 License based upon the following violations alleged in the Accusation:

8 **FACTS**

9 5. On February 7, 2008, Respondent completed a real estate appraisal report for property
10 located at 916 151st Street, Compton, California with a concluded value of \$355,000. Property #1
11 was a single family residence with approximately 1,562 square feet, including four bedrooms and
12 two bathrooms on a 6286 square foot lot. The intended use of the appraisal report was for
13 mortgage purposes.

14 **BASIS FOR DISCIPLINE**

15 6. Respondent is subject to disciplinary action under Regulation section 3721,
16 subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702
17 subdivisions (a) (1) and (a) (3), and the following USPAP violations:

18 **FIRST CAUSE FOR DISCIPLINE**

19 7. Failure to Properly Collect, Verify and Analyze Comparable Sales Data -
20 Respondent violated Standards Rule (S.R.) 1-4(a) and 2-2(b)(viii) in that Respondent applied
21 condition ratings and sale concession adjustments without any supporting data or verification.

22 **SECOND CAUSE FOR DISCIPLINE**

23 8. Failure to Perform an Adequate Scope of Work - Respondent violated Standards Rule
24 1-2(h) and 2-2(b)(vii) in that Respondent failed to utilize a relevant Multiple Listing data source
25 in order to develop credible assignment results.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 9. Failure to use Methodology Correctly to Produce a Credible Appraisal Report –
3 Respondent violated USPAP Standard 1 and S.R. 1-1(a), in that Respondent failed to correctly
4 employ those recognized methods and techniques necessary to produce a credible appraisal report
5 for Property #1, based on the findings set forth in 26 and 27 above.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 10. Substantial Errors of Omission or Commission Affecting Appraisal –
8 Respondent violated USPAP Standard 1 and S.R. 1-1(b), in that Respondent committed
9 substantial errors of omission or commission affecting the appraisal of Property #1, based on the
10 findings set forth in 26 and 27 above.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 30. Misleading Appraisal Report – Respondent violated USPAP Standard 2 and S.R. 2-
13 1(a), in that Respondent failed to clearly and accurately set forth the appraisal of Property #1 in a
14 manner that would not be misleading, based on the findings set forth in 26 and 27 above.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 31. Insufficient Information in Appraisal Report – Respondent violated USPAP Standard
17 2 and S.R. 2-1(b) in that Respondent failed to provide sufficient information to enable the
18 intended users of the appraisal report on Property #1 to understand it properly, based on the
19 findings set forth in 26 and 27, above.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 32. Improper License Level to supervise a Trainee – Respondent violated the California
22 Code of Regulations, section 3568(f) in that Respondent supervised a trainee appraiser while not
23 being certified to do so.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 33. Violation of the Conduct Section of the Ethics Rule – Respondent violated the
26 Conduct section of the Ethics Rule based on the findings set forth in 26, 27 and 32, above.

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ORDER

IT IS SO ORDERED that Residential Real Estate Appraiser License No. AL035752 heretofore issued to Respondent Joel M. Lewis, is revoked.

If Respondent ever applies for licensure or any certification of registration to the Office of Real Estate Appraisers, or petitions for reinstatement in the State of California, the Director shall treat it as a new application for licensure or certification. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. C080429-03 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the application, certification or petition.

Respondent shall not be eligible to apply for a new license until three years from the effective date of this Default Order.

Prior to any application for a new or reinstated license, Respondent shall pay to the Office of Real Estate Appraisers its costs of investigation and enforcement in the amount of \$627.60. Pursuant to Business and Professions Code section 11409(e), the Office may not process any licensing application filed by Respondent until any and all monies owed by the Respondent to the Office are paid in full, including investigation and enforcement costs and any application fees.

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

This Decision shall become effective on 02/17/2012.

It is so ORDERED 01/18/2012

Original Signed

FOR THE DIRECTOR OF THE
OFFICE OF REAL ESTATE APPRAISERS

Attachment: Exhibit A: Accusation No. C080429-03

Exhibit A

Accusation No. C080429-03

1 Kathleen. S. Chovan
2 Department Counsel, State Bar No. 158325
3 Office of Real Estate Appraisers
4 1102 "Q" Street, Suite 4100
5 Sacramento, CA 95811
6 Telephone: (916) 552-9000
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8 *Attorney for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. C080429-03

13 **JOEL M. LEWIS**
14 14054 Driftwood Drive
15 Victorville, CA 92395

A C C U S A T I O N

16 **Residential Appraiser License No.**
17 **AL035752**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
21 (Complainant) brings this Accusation solely in her official capacity as a Supervising Property
22 Appraiser Investigator for Complainant. She is represented in this matter by Department Counsel
23 for Complainant, Kathleen S. Chovan.

24 2. On or about December 9, 2005, the Director of the Office of Real Estate Appraisers
25 ('Director') issued Residential Appraiser license Number AL035752 to Joel M. Lewis
26 ('Respondent'). Respondent's real estate appraiser license was in full force and effect at all
27 times relevant to the charges brought herein and expired on November 30, 2008.

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1 **JURISDICTION**

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

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

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

11 6. Code section 11319 states:

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

17 **FINES**

18 7. Code section 11316 subdivision (a) states:

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

24 **COST RECOVERY**

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

26 Except as otherwise provided by law, any order issued in resolution of a
27 disciplinary proceeding may direct a licensee, applicant for licensure,
28 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

1 accreditation found to have committed a violation or violations of statutes
2 or regulations relating to real estate appraiser practice to pay a sum not to
3 exceed the reasonable costs of investigation, enforcement, and
4 prosecution of the case.

5 REGULATORY PROVISIONS

6 9. California Code of Regulations, title 10, ("Regulation") section 3701 states:
7 Every holder of a license under this part shall conform to and observe the Uniform Standards of
8 Professional Appraisal Practice (USPAP) and any subsequent amendments thereto as
9 promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards are
10 herein incorporated into these regulations by reference as if fully set forth herein.

11 10. Regulation section 3702 (a) states, in pertinent part:

12 (1) The Director finds and declares as follows:

13 That the profession of real estate appraisal is vested with a fiduciary
14 relationship of trust and confidence as to clients, lending institutions, and
15 both public and private guarantors or insurers of funds in federally-related
16 real estate transactions and that the qualifications of honesty, candor,
17 integrity and trustworthiness are directly and substantially related to and
18 indispensable to the practice of the appraisal profession; ...

19 (3) Every holder of a license to practice real estate appraisal ... shall be
20 required to demonstrate by his or her conduct that he or she possesses the
21 qualifications of honesty, candor, integrity and trustworthiness

22 11. Regulation section 3705 (a) states:

23 Every appraisal report subject to the Uniform Standards of Professional
24 Appraisal Practice upon final completion shall bear the signature and
25 license number of the appraiser and of the supervising appraiser, if
26 appropriate. The affixing of such signature and number constitute the
27 acceptance by the appraiser and supervising appraiser of full and personal
28 responsibility for the accuracy, content, and integrity of the appraisal
under Standards Rules 1 and 2 of USPAP.

12. Regulation section 3721 states, in pertinent part:

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

...

(6) Violated any provision of USPAP;

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

7 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**
8 **(EFFECTIVE JANUARY 1, 2008)¹**

9 13. USPAP Standard 1 states:

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

14 14. USPAP Standard Rule 1-1 states:

15 In developing a real property appraisal, an appraiser must:
16 (a) be aware of, understand, and correctly employ those recognized
17 methods and techniques that are necessary to produce a credible
18 appraisal;
19 (b) not commit a substantial error of omission or commission that
20 significantly affects an appraisal;

21 15. USPAP Standards Rule 1-2 states:

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

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

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

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

28 16. USPAP Standards Rule 1-3 states:

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

(a) identify and analyze the effect on use and value of existing land use

¹ The Uniform Standards of Professional Appraisal Practice (USPAP) are periodically revised, and appraisers are responsible for adherence to the edition of USPAP in effect as of the date of the report for an appraisal. The 2008 edition of USPAP (effective January 1, 2008 through December 31, 2009), was applicable to the appraisal in this case, which had a report date of February 7, 2008. Therefore, references to "USPAP" herein reflect the 2008 edition of USPAP unless otherwise noted.

1 regulations, reasonably probable modifications of such land use
2 regulations, economic supply and demand, the physical adaptability of the
3 real estate, and market area trends; and

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

5 17. USPAP Standards Rule 1-4 states in part:

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

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

11 18. USPAP Standards Rule 1-5 states:

12 When the value opinion to be developed is market value, an appraiser
13 must, if such information is available to the appraiser in the normal
14 course of business:

15 (a) analyze all agreements of sale, options, and listings of the subject
16 property current as of the effective date of the appraisal; and

17 (b) analyzes all sales of the subject property that occurred with the
18 three (3) years prior to the effective date of the appraisal.

19 19. USPAP Standards 2 states:

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

23 20. USPAP Standards Rule 2-1 states:

24 Each written or oral real property appraisal report must:

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

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

(c) clearly and accurately disclose all assumptions, extraordinary
assumptions, hypothetical conditions, and limiting conditions used in the
assignment.

21 21. USPAP Standards Rule 2-2 states:

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

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

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

1 (vii) summarize the scope of work used to develop the appraisal;
2 (viii) summarize the information analyzed, the appraisal methods
and techniques employed, and the reasoning that supports the analyses,
opinions, and conclusions; exclusion of the sales comparison approach,
cost approach, or income approach.

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

(x) clearly and conspicuously:

- 6 • state all extraordinary assumptions and hypothetical
conditions; and
- 7 • state that their use might have affected the assignment results.

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

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

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

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

17 Conduct:

18 An appraiser must perform assignments ethically and competently, in
19 accordance with USPAP. An appraiser must not engage in criminal
conduct. An appraiser must perform assignments with impartiality,
20 objectivity, and independence, and without accommodation of personal
interests.

21 An appraiser must not advocate the cause or interest of any party or issue.

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

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

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

characteristics is necessary to maximize value. ...

23. The Scope of Work Rule in USPAP states:

SCOPE OF WORK RULE

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

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

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

Problem Identification

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

Scope of Work Acceptability

The scope of work must include the research and analysis 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.

Disclosure Obligation

The report must contain sufficient information to allow intended users to understand the scope of work performed.

FACTS

24. On February 7, 2008, Respondent completed a real estate appraisal report for property located at 916 151st Street, Compton, California with a concluded value of \$355,000. Property #1

1 was a single family residence with approximately 1,562 square feet, including four bedrooms and
2 two bathrooms on a 6286 square foot lot. The intended use of the appraisal report was for
3 mortgage purposes.

4 **BASIS FOR DISCIPLINE**

5 25. Respondent is subject to disciplinary action under Regulation section 3721,
6 subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702
7 subdivisions (a) (1) and (a) (3), and the following USPAP violations:

8 **FIRST CAUSE FOR DISCIPLINE**

9 26. Failure to Properly Collect, Verify and Analyze Comparable Sales Data -
10 Respondent violated Standards Rule (S.R.) 1-4(a) and 2-2(b)(viii) in that Respondent applied
11 condition ratings and sale concession adjustments without any supporting data or verification.
12

13 **SECOND CAUSE FOR DISCIPLINE**

14 27. Failure to Perform an Adequate Scope of Work - Respondent violated Standards Rule
15 1-2(h) and 2-2(b)(vii) in that Respondent failed to utilize a relevant Multiple Listing data source
16 in order to develop credible assignment results.

17 **THIRD CAUSE FOR DISCIPLINE**

18 28. Failure to use Methodology Correctly to Produce a Credible Appraisal Report -
19 Respondent violated USPAP Standard 1 and S.R. 1-1(a), in that Respondent failed to correctly
20 employ those recognized methods and techniques necessary to produce a credible appraisal report
21 for Property #1, based on the findings set forth in 26 and 27 above.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 29. Substantial Errors of Omission or Commission Affecting Appraisal -
24 Respondent violated USPAP Standard 1 and S.R. 1-1(b), in that Respondent committed
25 substantial errors of omission or commission affecting the appraisal of Property #1, based on the
26 findings set forth in 26 and 27 above.

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FIFTH CAUSE FOR DISCIPLINE

30. Misleading Appraisal Report – Respondent violated USPAP Standard 2 and S.R. 2-1(a), in that Respondent failed to clearly and accurately set forth the appraisal of Property #1 in a manner that would not be misleading, based on the findings set forth in 26 and 27 above.

SIXTH CAUSE FOR DISCIPLINE

31. Insufficient Information in Appraisal Report – Respondent violated USPAP Standard 2 and S.R. 2-1(b) in that Respondent failed to provide sufficient information to enable the intended users of the appraisal report on Property #1 to understand it properly, based on the findings set forth in 26 and 27, above.

SEVENTH CAUSE FOR DISCIPLINE

32. Improper License Level to supervise a Trainee – Respondent violated the California Code of Regulations, section 3568(f) in that Respondent supervised a trainee appraiser while not being certified to do so.

EIGHTH CAUSE FOR DISCIPLINE

33. Violation of the Conduct Section of the Ethics Rule – Respondent violated the Conduct section of the Ethics Rule based on the findings set forth in 26, 27 and 32, above.

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 the right of Joel M. Lewis to renew Residential Appraiser License Number AL035752.
2. Ordering Joel M. Lewis 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 Joel M. Lewis to pay the Director of the Office of Real Estate Appraisers a fine pursuant to section 11316, subdivision (a); and

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4. Taking such other and further action as deemed necessary and proper.

Original Signed

DATED: November 29, 2010

ELIZABETH SEATERS
Supervising Property Appraiser Investigator
Office of Real Estate Appraisers
State of California
Complainant