

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

MARTIN ESQUEDA
29476 Mariners Way
Lake Elsinore, CA 92530

Residential Appraiser License No. AL 036421

Respondent.

Case No. C120508-01

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 23, 2012, Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Office of Real Estate Appraisers (Complainant), filed Accusation No. C120508-01 against Martin Esqueda (Respondent) before the Director of the Office of Real Estate Appraisers (Accusation attached as Exhibit A.)

2. On or about May 3, 2006, the Director of the Office of Real Estate Appraisers issued Appraiser License No. 036421 to Respondent. The Appraiser License was in full force and effect at all times relevant to the charges brought in Accusation No. C120508-01 and will expire on February 15, 2013, unless renewed.

1 3. On or about October 23, 2012, Respondent was served by Certified Mail copies of the
2 Accusation No. C120508-01, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Title 10, California Code of Regulations,
5 section 3527, is required to be reported and maintained with the Office. Respondent's address of
6 record was and is 29476 Mariners Way, Lake Elsinore, CA 92530.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. The aforementioned documents have not been returned by the U.S. Postal Service.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation and supporting materials and therefore waived his right to a hearing on the
19 merits of Accusation No. C120508-01.

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

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

25 9. Pursuant to its authority under Government Code section 11520, the Director of the
26 Office of Real Estate Appraisers finds Respondent is in default. The Director of the Office of
27 Real Estate Appraisers will take action without further hearing and, based on the relevant
28 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 of the Office of Real Estate Appraisers offices regarding the allegations contained in

1 Accusation No. C120508-01, finds that the charges and allegations in Accusation No. C120508-
2 01, are separately and severally, found to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 11409, it is hereby determined that the reasonable costs for
5 Investigation and Enforcement is \$1,577.50 as of November 14, 2012.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Martin Esqueda has subjected
8 his Appraiser License No. 036421 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Director of the Office of Real Estate Appraisers is authorized to revoke
11 Respondent's Appraiser License based upon the following violations alleged in the Accusation
12 which are supported by the evidence contained in the Default Decision Evidence Packet in this
13 case.:

14 a. Respondent is subject to disciplinary action under Code section 11328 and Regulation
15 section 3721, in that he failed to provide true copies of appraisal reports and supporting
16 documentation when requested by the Office of Real Estate Appraisers in the course of an
17 investigation.

18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

ORDER

1
2 IT IS SO ORDERED that Appraiser License No. 036421, heretofore issued to Respondent
3 Martin Esqueda, 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.

8 This Decision shall become effective on 12-21-12.

9 It is so ORDERED 11-19-12

10
11 *Original Signed*

12 FOR THE DIRECTOR OF THE OFFICE OF REAL
13 ESTATE APPRAISERS STATE OF CALIFORNIA

14 70646431.DOC
SD2012704145

15 Attachment:
16 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:

Case No. C120508-01

12 **MARTIN ESQUEDA**
13 **29476 Mariners Way**
14 **Lake Elsinore, CA 92530**

ACCUSATION

15 **Residential Appraiser License No. AL036421**

16 Respondent.

17
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 Chief of Enforcement for
22 Complainant.

23 2. On or about May 3, 2006, the Director of the Office of Real Estate Appraisers issued
24 Residential Appraiser License Number 036421 to Martin Esqueda (Respondent). The Appraiser
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on February 15, 2013, unless renewed.
27
28

1
2
3
4
5
6
7
8
9
10
11
12

JURISDICTION

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

4. Section 11313 of the Code requires the Office of Real Estate Appraisers (OREA) to adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of the Real Estate Appraisers' law.

5. Section 11314 of the Code requires OREA to include in its regulations requirements for the licensure and discipline of real estate appraisers.

6. Section 11316 of the Code allows OREA to fine a licensee for violations of the Code and/or OREA regulations.

STATUTORY PROVISIONS

7. Business and Professions Code section 11328 states:

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 office. This material shall be confidential in accordance with the confidentiality provisions of the Uniform Standards of Professional Appraisal Practice.

REGULATORY PROVISIONS

8. The OREA regulations, as amended from time to time, appear in Title 10, Chapter 6.5, section 3500, et seq., of the California Code of Regulations (Regulation).

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

///

1
2
3
4
5

COST RECOVERY

10. 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.

6
7

CAUSE FOR DISCIPLINE

(Failure to Provide Appraisal Reports during the course of an Investigation.)

8
9
10
11

11. Respondent is subject to disciplinary action under Code section 11328 and Regulation section 3721, in that he failed to provide true copies of appraisal reports and supporting documentation when requested by the Office of Real Estate Appraisers in the course of an investigation. The circumstances are as follows:

12
13
14
15
16
17

a. On or about June 14, 2012, a demand letter was sent to Respondent's address of record, 29476 Mariners Way, Lake Elsinore, California. The letter requested a copy of Respondent's appraisal report and corresponding work file for a property Respondent had appraised located at 4945 N. Stoddard Avenue, San Bernardino, California 92407. The demand letter advised Respondent that in accordance with Code section 11328, Respondent was required to provide the Office of Real Estate Appraisers copies of the appraisal report and work file.

18
19
20
21
22
23

b. On June 20, 2012 Respondent sent a letter to the Office of Real Estate Appraisers explaining that he no longer worked as an appraiser and did not intend to renew his license. Respondent did not provide the Office of Real Estate Appraisers with a copy of the appraisal report and corresponding work file for the property that Respondent had appraised located at 4945 N. Stoddard Avenue, San Bernardino, California 92407, as had previously been requested by the Office of Real Estate Appraisers.

24
25
26

c. Office of Real Estate Appraisers investigators attempted to contact Respondent via telephone on August 1, 2012, and again on August 12, 2012 but were unable to contact Respondent on either occasion.

27
28

d. On August 10, 2012 a final demand letter was sent by the Office of Real Estate Appraisers to Respondent's address of record again demanding a copy of the appraisal report and

1 corresponding work file for the property that Respondent had appraised at 4945 N. Stoddard
2 Avenue, San Bernardino, California 92407. Respondent failed to answer the offices repeated
3 requests for information.

4 **PRAYER**

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

- 8 1. Revoking or suspending Real Estate Appraiser License Number 036421, issued to
9 Martin Esqueda;
- 10 2. Ordering Martin Esqueda to pay the Director of the Office of Real Estate Appraisers
11 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 11409;
- 13 3. Ordering Martin Esqueda to pay the Director of the Office of Real Estate Appraisers a
14 fine pursuant to Business and Professions Code section 11316; and
- 15 4. Taking such other and further action as deemed necessary and proper.
- 16
17

18 DATED: 10/23/12

Original Signed

19 ELIZABETH SEATERS
20 Chief of Enforcement
21 Office of Real Estate Appraisers
22 State of California
23 Complainant

24 SD2012704145
25 70630908.doc