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

In the Matter of the Accusation Against:  
  
**JEFFREY B. MCKINNEY**  
**3864 East Gerrysburg Ave.**  
**Fresno, CA 93726**  
  
**Real Estate Appraiser License No.**  
**AL036932**  
  
Respondent.

Case No. C090813-09

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 29, 2012, Elizabeth Seaters, acting solely in her official capacity as the Acting Chief of Enforcement, acting on behalf of the Office of Real Estate Appraisers (Complainant), filed Accusation No. C090813-09 against Jeffrey B. McKinney (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about September 6, 2006, the Director of the Office of Real Estate Appraisers (Director) issued Real Estate Appraiser License No. AL036932 to Respondent. The Real Estate Appraiser License expired on April 7, 2011, and has not been renewed.

3. On or about March 29, 2012, Respondent was served by Certified and First Class Mail copies of Accusation No. C090813-09, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of

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

2 Respondent's address of record was and is:

3 3864 East Gerrysburg Ave., Fresno, CA 93726.

4 4. Service of the Accusation was effective as a matter of law under the provisions of  
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
6 124.

7 5. Subsequent to the date of service, the aforementioned documents were returned by  
8 the U.S. Postal Service marked Attempted Not Known. The address on the documents was the  
9 same as the address on file with the Director. Respondent failed to maintain an updated address  
10 with the Director and the Director has made attempts to serve the Respondent at the address on  
11 file. Respondent has not made himself available for service and therefore, has not availed himself  
12 of his right to file a notice of defense and appear at hearing.

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

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 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.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
19 C090813-09.

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  
respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Deputy Director  
25 finds Respondent is in default. The Deputy Director will take action without further hearing and,  
26 based on the relevant evidence contained in the Default Decision Evidence Packet in this matter,  
27 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
28 therein on file at the Director's offices regarding the allegations contained in Accusation No.

1 C090813-09, finds that the charges and allegations in Accusation No. C090813-09, are separately  
2 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 \$136.22 as of April 26, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Jeffrey B. McKinney has  
8 subjected his Real Estate Appraiser License No. AL036932 to discipline.

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

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

14 a. Business and Professions Code section 11328.

15 ORDER

16 IT IS SO ORDERED that Real Estate Appraiser License No. AL036932, heretofore issued  
17 to Respondent Jeffrey B. McKinney, is revoked.

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

22 This Decision shall become effective on May 11, 2012.

23 It is so ORDERED May 11, 2012

24 **Original Signed**

25 FOR THE DIRECTOR OF THE OFFICE OF REAL  
26 ESTATE APPRAISERS

26 20597749.DOC  
27 DOJ Matter ID:SF2012204304

27 Attachment:  
28 Exhibit A: Accusation

# Exhibit A

Accusation

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  
7 Facsimile: (916) 552-9008  
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:**

13 **Case No. C 090813-09**

14 **JEFFERY B. MCKINNEY**  
15 3864 East Gettysburg Avenue  
16 Fresno, CA 93726

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

18 **Residential Appraiser License No.**  
19 **AL036932**

20 **Respondent.**

21 **Complainant alleges:**

22 **PARTIES**

23 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers  
24 (Complainant) brings this Accusation solely in her official capacity as Acting Chief of  
25 Enforcement for Complainant.

26 2. On or about September 6, 2006, the Director of the Office of Real Estate Appraisers  
27 ("Director") issued Residential Appraiser license Number AL036932 to Jeffery B. McKinney  
28 ("Respondent"). Respondent's real estate appraiser license was in full force and effect at all  
times relevant to the charges brought herein. Respondent's real estate appraiser license expired  
on April 7, 2011

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1 **JURISDICTION**

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

9 The office is required to include in its regulations requirements for licensure and  
10 discipline of real estate appraisers that ensure protection of the public interest.

11 **FINES**

12 6. Code section 11316, subdivision (a) states:

13 The director may assess a fine against a licensee, applicant for licensure, person who  
14 acts in a capacity that requires a license under this part, course provider, applicant for course  
15 provider accreditation, or a person who, or entity that, acts in a capacity that requires course  
16 provider accreditation for violation of this part or any regulations adopted to carry out its  
17 purposes.

18 **MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE**

19 7. Code section 11319 states:

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

25 8. Code section 11328 states:

26 To substantiate documentation of appraisal experience, or to facilitate the investigation of  
27 illegal or unethical activities by a licensee, applicant, or other person acting in the capacity that  
28 requires a license, that licensee, applicant or person shall, upon the request of the director, submit

1 copies of appraisals, or any work product which is addressed by the Uniform Standards of  
2 Professional Appraisal Practice, and all supporting documentation and data to the office. This  
3 material shall be confidential in accordance with the confidentiality provisions of the Uniform  
4 Standards of Professional Appraisal Practice.

### 5 COST RECOVERY

6 9. Code section 11409, subdivision (a) states:

7 Except as otherwise provided by law, any order issued in resolution of a disciplinary  
8 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that  
9 requires a license under this part, course provider, applicant for course provider accreditation, or a  
10 person who, or entity that, acts in a capacity that requires course provider accreditation found to  
11 have committed a violation or violations of statutes or regulations relating to real estate appraiser  
12 practice to pay a sum not to exceed the reasonable costs of investigation, enforcement, and  
13 prosecution of the case.

### 14 REGULATORY PROVISIONS

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

17 11. Regulation section 3527, subdivision (a) states, in pertinent part:

18 (a) All applicants for and holders of a license...shall submit written notice to OREA  
19 of any change to the following within 10 days on the Change Notification and Miscellaneous  
20 Requests Form REA 3011 (Rev. 5/8/00), which is herein incorporated by reference:

- 21 (1) Name;
- 22 (2) Residence telephone number
- 23 (3) Business telephone number
- 24 (4) Residence Address
- 25 (5) Business name or address; or
- 26 (6) Mailing address.

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1           12. Regulation section 3701 states:

2           Every holder of a license under this part shall conform to and observe the Uniform  
3 Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto  
4 as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards  
5 are herein incorporated into these regulations by reference as if fully set forth herein.

6           13. Regulation section 3702 (a) states, in pertinent part:

7           (a) The Director finds and declares as follows:

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

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

17           14. Regulation section 3705 (a) states:

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

24           15. Regulation 3721 states, in pertinent part:

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

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  
6 holders of licenses authorizing appraisals.

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

8 **(EFFECTIVE JANUARY 1, 2008)<sup>1</sup>**

9 16. USPAP Standard 1 states:

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

13 17. USPAP Standard 2 states:

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

16 18. The Ethics Rule of USPAP states, in pertinent part:

17 To promote and preserve the public trust inherent in professional appraisal practice,  
18 an appraiser must observe the highest standards of professional ethics. ...

19  
20 **PROPERTY APPRAISED**

21 19. On May 28, 2009, Respondent completed a real estate appraisal report for property  
22 located at 30 E. Conejo Avenue, Caruthers, California, with a concluded opinion of value at  
23 \$250,000.00. The property consisted of a two units, one-story homes built in 1950. The first unit  
24 contains 7 rooms, 4 bedrooms, 2 bathrooms with 1,804 square feet of living area. The second unit  
25 contains 4 rooms, 2 bedrooms, 1 bathroom with 1,097 square feet of living area.

26  
27 <sup>1</sup> USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report  
28 for an appraisal. The 2008-2009 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 May 28, 2009.



