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

In the Matter of the Accusation Against: **RICHARD R. VERMEULEN** **43363 North 16th Street West, No. 14** **Lancaster, CA 93534** **Real Estate Appraiser License No. AL038832** Respondent.	Case No. C090115-01 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 2, 2011, 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. C090115-01 against Richard R. Vermeulen (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about May 18, 2007, the Director of the Office of Real Estate Appraisers (Director) issued Real Estate Appraiser License No. AL038832 to Respondent. The Real Estate Appraiser License expired on December 4, 2009, and has not been renewed.

3. On or about December 2, 2011, Respondent was served by Certified and First Class Mail copies of Accusation No. C090115-01, 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

Regulations, section 3527, is required to be reported and maintained with the Director. Respondent's address of record was and is:

43363 North 16th Street West, No. 14, Lancaster, CA 93534.

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

5. On or about February 13, 2012, the aforementioned documents were returned by the U.S. Postal Service marked "Attempted, Not Known." The address on the documents was the same as the address on file with the Director. Respondent failed to maintain an updated address with the Director and the Director has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

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. C090115-01.

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 Deputy Director finds Respondent is in default. The Deputy 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.

C090115-01, finds that the charges and allegations in Accusation No. C090115-01, 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 are $2,191.68 as of April 25, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Richard R. Vermeulen has subjected his Real Estate Appraiser License No. AL038832 to discipline.

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

3. The Deputy 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 Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Title 10, California Code of Regulations, sections 3721(a)(2), (a)(6) and (a)(7), 3701, 3702 (a)(1) and (a)(3), and the following USPAP provisions: Standards Rules 1-1(a), 1-1(b), 1-2(h), 1-3(a), 1-4(a), 1-4(b)(ii), 1-5(b), 2-1(a), 2-2(b)(vii), 2-2(b)(viii), 2-2(b)(xi), 2-3, The Management Section of the Ethics Rule, The Conduct section of the Ethics Rule, The Scope of Work Rule, and The Competency Rule.

ORDER

IT IS SO ORDERED that Real Estate Appraiser License No. AL038832, heretofore issued to Respondent Richard R. Vermeulen, is revoked.

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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 May 11, 2012.

It is so ORDERED May 11, 2012

Original Signed

FOR THE DEPUTY DIRECTOR OF THE OFFICE
OF REAL ESTATE APPRAISERS

20597059.DOC
DOJ Matter ID:SF2012204316

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

Kathleen S. Chovan
Department Counsel, State Bar No. 158325
Office of Real Estate Appraisers
1102 "Q" Street, Suite 4100
Sacramento, CA 95811
Telephone: (916) 552-9000
Facsimile: (916) 552-9008
Attorney for Complainant

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

In the Matter of the Accusation Against: **RICHARD R. VERMEULEN** 43363 North 16th Street West, No. 14 Lancaster, CA 93534 **Appraiser License No. AL038832** Respondent.	Case No. C090115-01 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about May 18, 2007, the Director of the Office of Real Estate Appraisers ("Director") issued Residential Appraiser license Number AL038832 to Richard R. Vermeulen ("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 December 4, 2009 and has not been 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.

FINES

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

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.

MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE

7. 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.

8. 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 the 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.

COST RECOVERY

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

Except as otherwise provided by law, any order issued in resolution of a disciplinary proceeding may direct 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 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.

As of the date of this Accusation, Complainant has incurred $2,207.45 in investigation costs for this matter.

REGULATORY PROVISIONS

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

11. California Code of Regulations, title 10, ("Regulation") section 3701 states:

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

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

(a) The Director finds and declares as follows:

(1) That the profession of real estate appraisal is vested with a fiduciary relationship of trust and confidence as to clients, lending institutions, and both public and private guarantors or insurers of funds in federally-related real estate transactions

and that the qualifications of honesty, candor, integrity and trustworthiness are directly and substantially related to and indispensable to the practice of the appraisal profession…

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

13. Regulation section 3705 (a) states:

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

14. Regulation 3721 states, in pertinent part:

(a) The Director may issue a citation, order of abatement, assess a fine or private or public reproval, 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:

(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or another, or to injure another

(6) Violated any provision of USPAP

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

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UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP) (EFFECTIVE JANUARY 1, 2008)[1]

15. USPAP Standard 1 states:

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

16. USPAP Standards Rule 1-1 states, in part:

In developing a real property appraisal, an appraiser must:

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

(b) not commit a substantial error of omission or commission that significantly affects an appraisal…

17. USPAP Standards Rule 1-2 states, in part:

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

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

18. USPAP Standards Rule 1-4 states, in part:

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

(b) When a cost approach is necessary for credible assignment results, an appraiser must: …

(ii) analyze such comparable cost data as are available to estimate the cost new of improvements (if any); …

19. USPAP Standards Rule 1-5 states, in part:

[1] USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report 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 2, 2008.

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

(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

20. 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.

21. USPAP Standards Rule 2-1 states, in part:

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; ...

22. USPAP Standards Rule 2-2 states, in part:

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:

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

(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 must be explained...

(xi) include a signed certificate in accordance with Standard Rule 2-3.

23. USPAP Standards Rule 2-3 states:

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

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- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standard of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

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24. 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.

An appraiser must not engage in criminal conduct.

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

An appraiser must not advocate the cause or interest of 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.

Management

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.

It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent upon any of the following:

(1) the reporting of a predetermined value result (e.g., opinion of value)

(2) a direction in assignment results that favors the cause of the client;

(3) the amount of a value opinion

(4) the attainment of a stipulated result; or

(5) the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

Advertising for or soliciting assignments in a manner that is false, misleading or exaggerated is unethical.

25. The COMPETENCY Rule of USPAP provides as follows:

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

1. disclose the lack of knowledge and/or experience to the client before accepting the assignment;
2. take all steps necessary or appropriate to complete the assignment
3. describe the lack of knowledge and/or experience and the steps taken to

FACTS

PROPERTY APPRAISED

26. On May 2, 2008, Respondent completed a real estate appraisal report for property located at 1222 Boyden Avenue, Lancaster, California, with a concluded opinion of value at $237,000. The property consisted of a 6,460 square foot lot improved with an approximately 1,182 square foot, four bedroom, two bathroom, single-story, single family home built in 1955. The intended use of the appraisal report was for refinancing purposes.

BASIS FOR DISCIPLINE

27. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (2), (a)(6) and (a) (7), by and through his violation of Regulation sections 3701, 3702 subdivisions (a) (1) and (a) (3), and the following USPAP violations:

FIRST CAUSE FOR DISCIPLINE

Failure to Accurately Analyze and Report Land Use Restrictions

28. Respondent violated Standards Rule (S. R.). S.R. 1-3(a) and 2-2(b) (viii), in that Respondent failed to accurately summarize the subject property's specific zoning designation and clarify that the site is considered to be legal nonconforming.

SECOND CAUSE FOR DISCIPLINE

Misleading Appraisal Report Due to Insufficient Information

29. Respondent violated S.R. 1-4(a) and 2-2(b)(viii)) in creating a misleading report by failing to collect, verify, and analyze all information necessary for credible assignment results via the Sales Comparison Approach. Specifically, Comparable Sale One was inappropriate to use because it did not represent an "arms length" market transaction. Comparable Sale One involves a Trustee's Deed Upon Sale where the amount of the unpaid debt together with cost ($241,988) was paid by the lender, La Salle Bank, which does not reflect market value. Also, Respondent failed to reflect that as of his effective date of value Comparable Sale One represented a current listing as a "short sale" with the list price stated at $159,000. In addition, the Respondent failed to accurately state the list price for Listing One at $199,000, not $299,000 as stated in his report. Further, the Respondent failed to consider and analyze several comparable sales located in proximity to the subject property, which would have supported a lower opinion of value for the subject property.

THIRD CAUSE FOR DISCIPLINE

Failure to Adequately Perform Cost Approach

30. Respondent violated S.R. 1-4 (b) (ii) and 2-2(b) (viii) by failing to provide support for his estimated cost new of the subject property dwelling and garage via the Cost Approach.

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FOURTH CAUSE FOR DISCIPLINE

Failure to Analyze All Sales of Subject Property

31. Respondent violated S.R. 1-5(b) and 2-2(b) (viii) by failing to analyze all sales of the subject property that occurred within three years of the effective date of value

FIFTH CAUSE FOR DISCIPLINE

Misleading or Fraudulent Certification.

32. Respondent violated S.R. 2-2(b) (xi) and 2-3 through the creation of a misleading and/or fraudulent Appraiser's Certification by affixing the signature and license number of Emily Kelly as the appraiser who inspected the subject property and comparable sales and prepared the report, when the Respondent solely inspected and completed the appraisal report of the subject property

SIXTH CAUSE FOR DISCIPLINE

Use of Predetermined Value

33. Respondent violated the Management Section of the Ethics Rule by accepting an assignment that was contingent upon the reporting of a predetermined opinion of value that favored the cause of his client.

SEVENTH CAUSE FOR DISCIPLINE

Insufficient Scope of Work

34. Based upon the findings noted in paragraphs 26 – 32 above, Respondent violated the Scope of Work Rule and S. R. 1-2(h), and 2-2(b)(vii), by failing to identify and perform the appropriate scope of work necessary in order to competently complete the appraisal assignment

EIGHTH CAUSE FOR DISCIPLINE

Failure to Use Methodology Necessary to Produce Credible Report

35. Based upon the findings noted in paragraphs 26 – 32 above, Respondent violated S.R. 1-1(a) by failing to correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

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NINITH CAUSE FOR DISCIPLINE

Errors of Omission and Commission

36. Based upon the findings noted in paragraphs 26 – 32 above, Respondent violated S.R. 1-1(b) by committing substantial errors of omission and or commission that significantly affected the appraisal.

TENTH CAUSE FOR DISCIPLINE

Competency Rule

37. Based upon the findings noted in paragraphs 26 – 32 above, Respondent violated the Competency Rule by failing to take all steps necessary or appropriate to complete the appraisal assignment competently. As a result, the value conclusion was not supported

ELEVENTH CAUSE FOR DISCIPLINE

Conduct Violation Under Ethics Rule

38. Based upon the findings noted in paragraphs 26 – 32 above, Respondent violated the Conduct section of the Ethics Rule and S.R. 2-1(a) by communicating assignments results in a misleading or fraudulent manner.

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 to Renew License Number AL038832 issued to Richard R. Vermeulen.

2. Ordering Richard R. Vermeulen to pay the Director of the Office of Real Estate Appraisers $2,207.45 for the costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;

3. Ordering Richard R. Vermeulen to pay the Director of the Office of Real Estate Appraisers a fine pursuant to section 11316, subdivision (a); and

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

DATED: December 2, 2011

Original Signed

ELIZABETH SEATERS

Supervising Property Appraiser Investigator

Office of Real Estate Appraisers

State of California

Complainant