

**BEFORE THE
 BUREAU CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
 BUREAU OF REAL ESTATE APPRAISERS
 STATE OF CALIFORNIA**

In the Matter of the of the
 Real Estate Appraiser License of:

Case No. 100714-06, 120402-01

Joel W. Quarry,
 5121 Chesley Avenue
 Los Angeles, CA 90043

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on 7-1-14.

It is so ORDERED 5-28-14.

Original Signed

 JAMES MARTIN, BUREAU CHIEF,
 BUREAU OF REAL ESTATE APPRAISERS
 DEPARTMENT OF CONSUMER AFFAIRS

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Attorney General of California
2 MARC D. GREENBAUM
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7

8 **BEFORE THE**
BUREAU CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. CI00714-06/120402-01

11 **JOEL W. QUARY**
12 **5121 Chesley Avenue**
Los Angeles, CA 90043
13 **Real Estate Appraiser License No.**
AR038873
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STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Elizabeth Seaters is the Chief of Enforcement of Complainant, the Bureau of Real
23 Estate Appraisers (Complainant). She brought this action solely in her capacity and is
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
25 Morgan Malek, Deputy Attorney General.

26 2. Respondent Joel W. Quary (Respondent) is representing himself in this proceeding
27 and has chosen not to exercise his right to be represented by counsel.
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1 4. **Monitoring.** Respondent shall be subject to, and shall permit and cooperate with,
2 monitoring and investigation of respondent's professional practice. Such monitoring and
3 investigation shall be conducted by representatives of the BREa.

4 5. **Monitoring Costs.** Respondent shall pay costs associated with monitoring each and
5 every year of probation. Respondent shall comply with the BREa's probation compliance
6 monitoring program. Failure to pay costs or comply with probation monitoring shall be
7 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs
8 incurred by the BREa in reviewing appraisals, and other monitoring, in an amount not to exceed
9 \$250.00 per six (6) months.

10 6. **Comply With Probation.** Respondent shall fully comply with the terms and
11 conditions of the probation imposed by the Bureau Chief of the BREa and shall cooperate fully
12 with representatives of the BREa in its monitoring and investigation of respondent's compliance
13 with the terms and conditions of probation.

14 7. **Cost Reimbursement.** Respondent shall reimburse the BREa its investigation and
15 prosecution costs in the sum of ten thousand dollars (\$10,000). Payment of the costs shall be
16 made in monthly installments with payments of not less than two hundred seventy eight dollars
17 (\$278.00), with the first payment due on the effective date of the final Decision and Order as
18 signed by the Bureau Chief. Payment shall be made to the Real Estate Appraisers Regulation
19 Fund, c/o Bureau of Real Estate Appraisers, 1102 Q Street, Suite 4100, Sacramento, California
20 95811, by check or money order and shall indicate on its face the notation: "BREa Case No.
21 CI00714-06/120402-01 ." Respondent shall also submit a copy of the invoice with payment,
22 which will be provided by the BREa. If full payment is not received by the BREa by the date
23 due as noted in the invoice, a 10 percent late penalty shall be added to the unpaid balance and
24 interest will accrue on the unpaid balance at the pooled money investment rate in effect at that
25 time, until the full amount is paid. Respondent shall not be eligible to renew his or her license
26 until such time as full payment of the outstanding costs have been made. Failure to reimburse the
27 BREa's costs of its investigation and prosecution shall constitute a violation of the probationary
28 order.

1 8. **Active License/Registration Status.** Respondent shall at all times maintain an active
2 license/registration status with the BREa, including during any period of suspension. If the
3 license/registration is expired at the time the Decision and Order of the Bureau Chief of the
4 Bureau of Real Estate Appraisers becomes effective, the license/registration must be renewed
5 within 10 days of the effective date of the Decision and Order.

6 9. **Tolling of Probation For Out-of-State Residence/Practice.** In the event respondent
7 should leave California to reside or practice outside this state, respondent must notify the BREa,
8 in writing, of the dates of departure and return. Periods of non-California residency or practice
9 outside the state shall not apply to reduction of the probationary period, or of any suspension. No
10 obligation imposed herein, including requirements to file written reports, reimburse the BREa's
11 costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods
12 of out-of-state residency or practice except at the written direction of the BREa. Respondent
13 must provide written notice to the BREa within 10 days of any change of residency or practice
14 outside the state, and within 30 days prior to re-establishing residency or returning to practice in
15 this state.

16 10. **Minimum Education Requirements.** Educational courses imposed as a term or
17 condition of probation by the Bureau Chief of the BREa may not be credited toward respondent's
18 continuing education requirements required for renewal of respondent's real estate appraiser
19 license.

20 11. **Automatic Suspension.** Failure to comply with the education requirements as
21 contained in this Disciplinary Order shall result in an automatic suspension of Respondent's real
22 estate appraiser license.

23 12. **Violation of Probation.** If respondent violates probation in any respect, the Chief of
24 the Bureau of Real Estate Appraisers, after giving respondent notice and an opportunity to be
25 heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation
26 or a petition to revoke probation is filed against respondent during probation, the Bureau Chief
27 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
28 extended until the matter is final.

1 13. **Completion of Probation.** Notwithstanding the continued effects of the published
2 discipline, upon successful completion of probation, respondent's license will be fully restored.

3 14. **Surrender of License:** During respondent's term of probation, if he or she ceases
4 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
5 probation, respondent may surrender his or her license to the Bureau of Real Estate Appraisers.
6 The BREA reserves the right to evaluate respondent's request and to exercise its discretion
7 whether to grant the request, or to take any other action deemed appropriate and reasonable under
8 the circumstances, without further hearing. Upon formal acceptance of the tendered license,
9 respondent will no longer be subject to the conditions of probation.

10 Surrender of respondent's license shall be considered a disciplinary action and shall become
11 a part of respondent's license history with the BREA. An appraiser whose license has been
12 surrendered may re-apply for licensure no sooner than one year from the effective date of the
13 disciplinary decision.

14 Respondent may petition to BREA for reinstatement pursuant to the provisions set forth in
15 Government Code section 11522. If, following a surrender of his or her license, Respondent ever
16 applies for licensure to the BREA and/or petitions for reinstatement in the State of California, the
17 Bureau Chief shall treat it as a new application for licensure. Respondent must comply with all
18 the laws, regulations and procedures for licensure in effect at the time the application or petition
19 is filed, and all of the charges and allegations contained in the Accusation or Statement of Issues
20 will be deemed true when the Bureau Chief determines whether to grant or deny the application
21 or petition. Further, Respondent shall pay the enforcement costs, fine and complete the
22 education, as specified in this Decision and Disciplinary Order prior to filing any application for
23 reinstatement or issuance of a new license.

24 15. **Uniform Standards of Professional Appraisal Practice Course /Examination.**
25 Respondent shall take and pass an BREA approved 15-hour basic education course on the
26 Uniform Standards of Professional Appraisal Practice within 6 months of the effective date the
27 Decision and Order of the Chief of the BREA. The course must be The Appraisal Foundation's
28 National USPAP Course (or its equivalent as determined solely by the Appraiser Qualifications

1 Board (AQB) Course Approval Program), and must be taught by an AQB Certified USPAP
2 Instructor who is also a Certified Residential or Certified General appraiser in good standing with
3 the BREA. The course must administer a closed-book final examination. Respondent must
4 submit proof of successful completion of the course and final examination within 6 months
5 following the effective date of the Decision and Order of the Chief of the BREA. Respondent
6 understands that it is his/her responsibility to ensure that the course meets all of the requirements
7 listed above and to make all necessary and preparatory arrangements to take the course.

8 **16. Basic Education Courses/Examination.** Respondent shall take and successfully
9 complete, within 12 months from the effective date of the Decision and Order of the Chief of the
10 BREA, BREA approved basic education courses covering the following modules: thirty (30)
11 hour module on "Residential Sales Comparison and Income Approaches". The courses must
12 administer a closed-book final examination. Respondent has the burden of applying for, paying
13 for, scheduling, and otherwise making arrangements to take the course. Respondent must timely
14 report successful completion of the course within 30 days from the date of completion by
15 submitting to the BREA a course completion certificate or transcript verifying respondent's
16 successful completion of the course and passage of the final examination.

17 **17. Payment of Fine.** Respondent shall pay a fine pursuant to Business and Professions
18 Code section 11316(a) and California Code of Regulations, title 10, section 3721(a), in the sum of
19 five thousand dollars (\$5,000). Respondent shall pay a fine pursuant to Business and Professions
20 Code section 11316(a) and California Code of Regulations, title 10, section 3721(a), in the sum of
21 five thousand dollars (\$5,000). The payment of this fine shall be made in monthly installments of
22 not less than one hundred thirty nine (\$139.00), with the first payment due on the effective date
23 of the Decision and Order as signed by the Bureau Chief of the BREA. Payment shall be made to
24 the Real Estate Appraisers Regulation Fund, c/o Office of Real Estate Appraisers, 1102 Q Street,
25 Suite 4100, Sacramento, California 95811, by check or money order and shall indicate on its face
26 the notation: "BREA Case No. CI00714-06/120402-01 ." Respondent shall also submit a copy of
27 the invoice with payment, which will be provided by the BREA. If full payment is not received
28 by the BREA by the date due as noted in the invoice, a 10 percent late penalty shall be added to

1 the unpaid balance and interest will accrue on the unpaid balance at the pooled money investment
2 rate in effect at that time, until the full amount is paid. Respondent shall not be eligible to renew
3 his or her license until such time as full payment of the outstanding fine has been made. Failure to
4 make payment on the fine shall constitute a violation of the probationary order.

5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Real Estate Appraiser License. I enter into this
8 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
9 to be bound by the Decision and Order of the Chief of the Bureau of Real Estate Appraisers,
10 Department of Consumer Affairs.

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12 DATED: 5/27/14

13 **Original Signed**
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15 JOEL W. QUARY
16 Respondent
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs.

Dated: 5/27/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General

Original Signed

✓ MORGAN MALEK
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. CI00714-06/120402-01

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Attorneys for Complainant

7
8 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case Nos. C100714-06 and C120402-01

11 **JOEL W. QUARY**
12 **5121 Chesley Avenue**
13 **Los Angeles, CA 90043**

A C C U S A T I O N

14 **Real Estate Appraiser License No.**
AR038873

15 Respondent.

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20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about November 18, 2005, the Director of the Office of Real Estate Appraisers
26 issued Real Estate Appraiser License Number AR038873 to Joel W. Quary (Respondent). The
27 Real Estate Appraiser License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on December 6, 2013, unless renewed.

1 JURISDICTION

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

5 4. **Business and Professions Code section 11313** states, in pertinent part:

6 "The office [Office of Real Estate Appraisers¹] is under the supervision and control of the
7 secretary [secretary of the Business, Transportation and Housing Agency]. The duty of enforcing
8 and administering this part is vested in the director [director of the OREA] and he or she is
9 responsible to the secretary therefor. The director shall adopt and enforce rules and regulations as
10 are determined reasonably necessary to carry out the purposes of this part."

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

14 6. **Business and Professions Code section 11316**, subdivision (a) states:

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

20 7. **Business and Professions Code section 11319** states:

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

26 8. **Business and Professions Code section 11325**, subdivision (a) states:

27 _____
28 ¹ OREA

1 "The director shall adopt regulations which determine the parameters of appraisal work
2 which may be performed by licensed appraisers."

3 9. **Business and Professions Code section 11328** states, in pertinent part:

4 "To substantiate documentation of appraisal experience, or to facilitate the investigation of
5 illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that
6 requires a license, that licensee, applicant, or person shall, upon the request of the director, submit
7 copies of appraisals, or any work product which is addressed by the Uniform Standards of
8 Professional Appraisal Practice, and all supporting documentation and data to the OREA."

9 10. **California Code of Regulations, title 10, section 3701** states:

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

14 11. **California Code of Regulations, Title 10, Regulations section 3702** states that:

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

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

21
22 (2) That registered Appraisal Management Companies are vested with a relationship of
23 trust and confidence as to their clients, lending institutions, and both public and private guarantors
24 or insurers of funds in federally-related real estate transactions and that the qualifications of
25 honesty, candor, integrity, and trustworthiness are directly and substantially related to and
26 indispensable to their business operations; and

27 (3) Every holder of a license to practice real estate appraisal, Registrant, Controlling Person
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1 of an Appraisal Management Company, or person or entity acting in a capacity requiring a license
2 or Certificate of Registration shall be required to demonstrate by his or her conduct that he or she
3 possesses the qualifications of honesty, candor, integrity, and trustworthiness.

4 (b) The Director may require such proof as he may deem advisable concerning the special
5 qualifications of an applicant for or holder of an appraisers' license or a Certificate of
6 Registration.

7 12. **California Code of Regulations, Title 10, Regulations section 3702** states that:

8 (a) Every appraisal report subject to the Uniform Standards of Professional Appraisal
9 Practice upon final completion shall bear the signature and license number of the appraiser and of
10 the supervising appraiser, if appropriate. The affixing of such signature and number constitute the
11 acceptance by the appraiser and supervising appraiser of full and personal responsibility for the
12 accuracy, content, and integrity of the appraisal under Standards Rules 1 and 2 of USPAP.
13

14 (b) Every review appraisal report upon final completion shall bear the signature and
15 license number of the reviewer. The affixing of such signature and number shall constitute
16 acceptance by the reviewer of responsibility for the review under Standard Rule 3 of USPAP.
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18 (c) The license number of the appraiser, and of the review appraiser if the report is a
19 review, shall appear with each signature throughout the appraisal or review document.

20 13. **California Code of Regulations, title 10, section 3721** states:

21 "(a) The Director may issue a citation, order of abatement, assess a fine or private or public
22 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the
23 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
24 capacity requiring a license or Certificate of Registration who has:
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26 "(1) Been convicted of a felony or any crime which is substantially related to the
27 qualifications, functions, or duties of the profession of real estate appraisal;
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1 "(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or
2 another, or to injure another;

3 "(3) Been convicted for a commission or solicitation of a criminal act which involved or
4 threatened bodily harm to others;

5 "(4) Done any act which if done by the holder of a license to practice real estate appraisal
6 would be grounds for revocation or suspension of such license;

7 "(5) Knowingly made a false statement of material fact required to be disclosed in an
8 application for a license authorizing the practice of real estate appraisal;

9 "(6) Violated any provision of USPAP;

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

14 "(8) Been prohibited from participating in the affairs of an insured depository institution
15 pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. Section 1829.); or

16 "(9) Submitted a financial instrument to OREA for the payment of any fee, fine or penalty
17 which instrument is subsequently dishonored by the issuing institution due to an act or omission
18 of that person.

19 "(b) Before issuing any private or public reproof or denying, suspending, or revoking any
20 license or Certificate of Registration issued or issuable under the provisions of the Real Estate
21 Appraisers Licensing and Certification Law or these regulations, the Office shall proceed as
22 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
23 the Government Code (the Administrative Procedure Act) and the Office shall have all the
24 powers granted therein.

25 "(c) Any person issued a citation containing a fine or order of abatement may contest the
26 citation by filing a written notice with the Office within 30 calendar days that states with
27 specificity the basis of the appeal. Upon receipt of such notice, the Office shall proceed as
28 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of

1 the Government Code (the Administrative Procedure Act) and the Office shall have all the
2 powers granted therein."

3 14. **California Code of Regulations, title 10, section 3722**, states:

4 "(a) A crime or act shall be deemed to be substantially related to the qualifications,
5 functions or duties of an appraiser if, to a substantial degree, it evidences present or potential
6 unfitness of a person holding a license to perform the functions authorized by his/her license. The
7 crimes or acts include, but are not limited to, the following:

8 "(1) Crimes or Acts involving the use of fraud, deceit or dishonesty for profit or gain;

9 "(2) Taking, appropriating or retaining the funds or property of another;

10 "(3) Forging, counterfeiting or altering any instrument affecting the rights or obligations of
11 another;

12 "(4) Evasion of a lawful debt or obligation, including but not limited to tax obligations;

13 "(5) Traffic in any narcotic or controlled substance in violation of law;

14 "(6) Driving under the influence of alcohol or drugs, while conducting business related to
15 real estate appraisals; conviction of felony driving under the influence of alcohol or drugs; or
16 conviction of two or more misdemeanor driving under the influence of alcohol or drugs within
17 any three year period, whether or not while conducting business:

18 "(7) Violation of a relation of trust or confidence;

19 "(8) Theft of personal property or funds;

20 "(9) Crimes or acts of violence or threatened violence against persons or property;

21 "(10) The commission of any crime or act punishable as a sexually related crime, if that
22 crime or act is substantially related to the duties and functions of the licensee; or

23 "(11) Misrepresentation of facts or information on the appraisal license application and/or
24 cheating on the examination.

25 "(b) An act or crime shall be deemed to be substantially related to the functions, duties or
26 qualifications of an appraiser if it involves any willful violation of the Real Estate Appraisers'
27 Licensing and Certification Act or provisions of the Business and Professions Code applicable to
28 appraisers.

- 1 (c) identify the type and definition of value, and, if the value opinion to be developed is
market value, ascertain whether the value is to be the most probable price:
- 2 (i) in terms of cash; or
3 (ii) in terms of financial arrangements equivalent to cash; or
4 (iii) in other precisely defined terms; and
5 (iv) if the opinion of value is to be based on non-market financing or financing with
unusual conditions or incentives, the terms of such financing must be clearly identified and the
6 appraiser's opinion of their contributions to or negative influence on value must be developed by
analysis of relevant market data;
- 7 (d) identify the effective date of the appraiser's opinions and conclusions;
- 8 (e) identify the characteristics of the property that are relevant to the purpose and intended
9 use of the appraisal, including:
- 10 (i) its location and physical, legal, and economic attributes;
11 (ii) the real property interest to be valued;
12 (iii) any personal property, trade fixtures, or intangible items that are not real
property but are included in the appraisal;
13 (iv) any known easements, restrictions, encumbrances, leases, reservations,
14 covenants, contracts, declarations, special assessments, ordinances, or other items of similar
nature; and
15 (v) whether the subject property is a fractional interest, physical segment, or partial
holding;
- 16 (f) identify any extraordinary assumptions necessary in the assignment;
17 (g) identify any hypothetical conditions in the assignment; and
18 (h) determine the scope of work necessary to produce credible assignment results in
19 accordance with the SCOPE OF WORK RULE.

15 **18. USPAP Standards Rule 1-3 states:**

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

- 18 (a) identify and analyze the effect on use and value of existing land use regulations,
reasonably probable modifications of such land use regulations, economic supply and demand,
19 the physical adaptability of the real estate, and market area trends; and
20 (b) develop an opinion of the highest and best use of the real estate.

20 **19. USPAP Standard Rule 1-4 states:**

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

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

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

- 26 (i) develop an opinion of site value by an appropriate appraisal method or
27 technique;
28 (ii) analyze such comparable cost data as are available to estimate the cost new of
the improvements (if any); and
29 (iii) analyze such comparable data as are available to estimate the difference
between the cost new and the present worth of the improvements (accrued depreciation).

30 (c) When an income approach is necessary for credible assignment results, an appraiser
must:

- 31 (i) analyze such comparable rental data as are available and/or the potential

1 earnings capacity of the property to estimate the gross income potential of the property;
2 (ii) analyze such comparable operating expense data as are available to estimate the
operating expenses of the property;

3 (iii) analyze such comparable data as are available to estimate rates of capitalization
and/or rates of discount; and

4 (iv) base projections of future rent and/or income potential and expenses on
reasonably clear and appropriate evidence.

5 (d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an
appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

6 (e) When analyzing the assemblage of the various estates or component parts of a property,
an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain
7 from valuing the whole solely by adding together the individual values of the various estates or
component parts.

8 (f) When analyzing anticipated public or private improvements, located on or off the site,
an appraiser must analyze the effect on value, if any, of such anticipated improvements to the
9 extent they are reflected in market actions.

10 (g) When personal property, trade fixtures, or intangible items are included in the
appraisal, the appraiser must analyze the effect on value of such non-real property items.

11 **20. USPAP Standard Rule 1-5 states:**

12 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:

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

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

16 **21. USPAP Standard Rule 1-6 states:**

In developing a real property appraisal, the appraiser must:

17 (a) reconcile the quality and quantity of data available and analyzed within the approaches
used; and

18 (b) reconcile the applicability and relevance of the approaches, methods and techniques
19 used to arrive at the value conclusion(s).

20 **22. USPAP Standard 2 states:**

21 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.

22 **23. USPAP Standards Rule 2-1 states:**

23 Each written or oral real property appraisal report must:

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

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

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

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1 **24. USPAP Standards Rule 2-2 states:**

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

5 (a) The content of a Self-Contained Appraisal Report must be consistent with the intended
6 use of the appraisal and, at a minimum:

- 7 (i) state the identity of the client and any intended users, by name or type;
- 8 (ii) state the intended use of the appraisal;
- 9 (iii) describe information sufficient to identify the real estate involved in the
10 appraisal, including the physical and economic property characteristics relevant to the
11 assignment;
- 12 (iv) state the real property interest appraised;
- 13 (v) state the type and definition of value and cite the source of the definition;
- 14 (vi) state the effective date of the appraisal and the date of the report;
- 15 (vii) describe the scope of work used to develop the appraisal;
- 16 (viii) describe the information analyzed, the appraisal methods and techniques
17 employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of
18 the sales comparison approach, cost approach, or income approach must be explained;
- 19 (ix) state the use of the real estate existing as of the date of value and the use of
20 the real estate reflected in the appraisal; and, when an opinion of highest and best use was
21 developed by the appraiser, describe the support and rationale for that opinion;
- 22 (x) clearly and conspicuously:
23 state all extraordinary assumptions and hypothetical conditions; and state that their use might
24 have affected the assignment results; and
- 25 (xi) include a signed certification in accordance with Standards Rule 2-3.

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

- 28 (i) state the identity of the client and any intended users, by name or type;
- (ii) state the intended use of the appraisal;
- (iii) summarize information sufficient to identify the real estate involved in the
 appraisal, including the physical and economic property characteristics relevant to the
 assignment;
- (iv) state the real property interest appraised;
- (v) state the type and definition of value and cite the source of the definition;
- (vi) state the effective date of the appraisal and the date of the report;
- (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;
- (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;
- (x) clearly and conspicuously:
 state all extraordinary assumptions and hypothetical conditions; and state that their use might
 have affected the assignment results; and
- (xi) include a signed certification in accordance with Standards Rule 2-3.

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

- 1 (i) state the identity of the client, by name or type;
2 (ii) state the intended use of the appraisal;
3 (iii) state information sufficient to identify the real estate involved in the appraisal;
4 (iv) state the real property interest appraised;
5 (v) state the type of value, and cite the source of its definition;;
6 (vi) state the effective date of the appraisal and the date of the report.
7 (vii) state the scope of work used to develop the appraisal;
8 (viii) state the appraisal methods and techniques employed, state the value
9 opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales
10 comparison approach, cost approach, or income approach must be explained;
11 (ix) state the use of the real estate existing as of the date of value and the use of the
12 real estate reflected in the appraisal; and, when an opinion of highest and best use was developed
13 by the appraiser, state that opinion;
14 (x) clearly and conspicuously: state all extraordinary assumptions and
15 hypothetical conditions; and state that their use might have affected the assignment results; and
16 (xi) include a signed certification in accordance with Standards Rule 2-3.

17 **25. USPAP Standards Rule 2-3 states:**

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

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

- 21 — the statements of fact contained in this report are true and correct.
22 — the reported analyses, opinions, and conclusions are limited only by the reported
23 assumptions and limiting conditions and are my personal, impartial, and unbiased professional
24 analyses, opinions, and conclusions.
25 — I have no (or the specified) present or prospective interest in the property that is
26 the subject of this report and no (or the specified) personal interest with respect to the parties
27 involved.
28 — 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 Standards 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.)

26. The USPAP ETHICS RULE states:

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

1 divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The first
2 three sections apply to all appraisal practice, and all four sections apply to appraisal practice
3 performed under Standards 1 through 10.

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

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

10 **Conduct:**

11 An appraiser must perform assignments ethically and competently, in accordance with
12 USPAP.

13 An appraiser must not engage in criminal conduct.

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

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

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

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

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

26 **Management:**

27 The payment of undisclosed fees, commissions, or things of value in connection with the
28 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 on any of the following:

1. the reporting of a predetermined 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.

Confidentiality:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the
use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and
regulations applicable in an assignment.

An appraiser must not disclose confidential information or assignment results prepared for a
client to anyone other than the client and persons specifically authorized by the client; state
enforcement agencies and such third parties as may be authorized by due process of law; and a
duly authorized professional peer review committee except when the disclosure to a committee

1 would violate applicable law or regulation. It is unethical for a member of a duly authorized
2 professional peer review committee to disclose confidential information presented to the
committee.

3 **Record Keeping:**

4 An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal
consulting assignment. The workfile must include:
5 the name of the client and the identity, by name or type, of any other intended users;
6 true copies of any written reports, documented on any type of media;
7 summaries of any oral reports or testimony, or a transcript of testimony, including the
appraiser's signed and dated certification; and
8 all other data, information, and documentation necessary to support the appraiser's opinions
and conclusions and to show compliance with this Rule and all other applicable Standards, or
references to the location(s) of such other documentation.

9 An appraiser must retain the workfile for a period of at least five (5) years after preparation
or at least two (2) years after final disposition of any judicial proceeding in which the appraiser
provided testimony related to the assignment, whichever period expires last.

10 An appraiser must have custody of his or her workfile, or make appropriate workfile
11 retention, access, and retrieval arrangements with the party having custody of the workfile.

12 **27. The USPAP Competency Rule states:**

13 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
14 experience to complete the assignment competently; or alternatively, must:

- 15 1. disclose the lack of knowledge and/or experience to the client before accepting the
assignment;
- 16 2. take all steps necessary or appropriate to complete the assignment competently; and
- 17 3. describe the lack of knowledge and/or experience and the steps taken to complete the
assignment competently in the report.

18 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE**

19 **(EFFECTIVE JANUARY 1, 2012³)**

20 **28. USPAP Standards Rule 1-1 states:**

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

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

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

24 (c) not render appraisal services in a careless or negligent manner, such as by making a
series of errors that, although individually might not significantly affect the results of an
appraisal, in the aggregate affects the credibility of those results.

25 **29. USPAP Standards Rule 1-2 states:**

26 _____
27 ³ The January 1, 2012, edition of USPAP (effective January 1, 2012, through December 31, 2013) is applicable to the allegations in
this accusation.

1 In developing a real property appraisal, an appraiser must:
2 (a) identify the client and other intended users;
3 (b) identify the intended use of the appraiser's opinions and conclusions;
4 (c) identify the type and definition of value, and, if the value opinion to be developed is
5 market value, ascertain whether the value is to be the most probable price:
6 (i) in terms of cash; or
7 (ii) in terms of financial arrangements equivalent to cash; or
8 (iii) in other precisely defined terms; and
9 (iv) if the opinion of value is to be based on non-market financing or financing
10 with unusual conditions or incentives, the terms of such financing must be clearly identified and
11 the appraiser's opinion of their contributions to or negative influence on value must be developed
12 by analysis of relevant market data;
13 (d) identify the effective date of the appraiser's opinions and conclusions;
14 (e) identify the characteristics of the property that are relevant to the type and definition of
15 value and intended use of the appraisal, including:
16 (i) its location and physical, legal, and economic attributes;
17 (ii) the real property interest to be valued;
18 (iii) any personal property, trade fixtures, or intangible items that are not real
19 property but are included in the appraisal;
20 (iv) any known easements, restrictions, encumbrances, leases, reservations,
21 covenants, contracts, declarations, special assessments, ordinances, or other items of a similar
22 nature; and
23 (v) whether the subject property 519 is a fractional interest, physical segment, or
24 partial holding;
25 (f) identify any extraordinary assumptions necessary in the assignment;
26 (g) identify any hypothetical conditions necessary in the assignment; and
27 (h) determine the scope of work necessary to produce credible assignment results in
28 accordance with the SCOPE OF WORK RULE.

30. **USPAP Standards Rule 1-3** states:

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

- 19 (a) identify and analyze the effect 551 on use and value of existing land use regulations,
20 reasonably probable modifications of such land use regulations, economic supply and demand,
21 the physical adaptability of the real estate, and market area trends; and
22 (b) develop an opinion of the highest and best use of the real estate.

31. **USPAP Standards Rule 1-4** states:

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

- 23 (a) When a sales comparison approach is necessary for credible assignment results, an
24 appraiser must analyze such comparable sales data as are available to indicate a value conclusion.
25 (b) When a cost approach is necessary for credible assignment results, an appraiser must:
26 (i) develop an opinion of site value by an appropriate appraisal method or
27 technique;
28 (ii) analyze such comparable cost data as are available to estimate the cost new of
the improvements (if any); and
(iii) analyze such comparable data as are available to estimate the difference
between the cost new and the present worth of the improvements (accrued depreciation).

1 (c) When an income approach is necessary for credible assignment results, an appraiser
2 must:

3 (i) analyze such comparable rental data as are available and/or the potential
4 earnings capacity of the property to estimate the gross income potential of the property;

5 (ii) analyze such comparable operating expense data as are available to estimate
6 the operating expenses of the property;

7 (iii) analyze such comparable data as are available to estimate rates of
8 capitalization and/or rates of discount; and

9 (iv) base projections of future rent and/or income potential and expenses on
10 reasonably clear and appropriate evidence.

11 (d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an
12 appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

13 (e) When analyzing the assemblage of the various estates or component 585 parts of a
14 property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser
15 must refrain from valuing the whole solely by adding together the individual values of the various
16 estates or component parts.

17 (f) When analyzing anticipated public or private improvements, located on or off the site,
18 an appraiser must analyze the effect on value, if any, of such anticipated improvements to the
19 extent they are reflected in market actions.

20 (g) When personal property, trade fixtures, or intangible items are included in the
21 appraisal, the appraiser must analyze the effect on value of such non-real property items.

22 **32. USPAP Standards Rule 1-5 states:**

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

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

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

33. USPAP Standards Rule 1-6 states:

In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches
used; and

34. 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

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

35. 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.

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

- 1 (i) state the identity of the client and any intended users, by name or type;
2 (ii) state the intended use of the appraisal;
3 appraisal, including the physical and economic property characteristics relevant to the
4 assignment;
5 (iv) state the real property interest appraised;
6 (v) state the type and definition of value and cite the source of the definition;
7 (vi) state the effective date of the appraisal and the date of the report;²¹
8 (vii) describe the scope of work used to develop the appraisal;
9 (viii) describe the information analyzed, the appraisal methods and techniques
10 employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of
11 the sales comparison approach, cost approach, or income approach must be explained;
12 (ix) state the use of the real estate existing as of the date of value and the use of the
13 real estate reflected in the appraisal; and, when an opinion of highest and best use was developed
14 by the appraiser, describe the support and rationale for that opinion;
15 (x) clearly and conspicuously:
16 state all extraordinary assumptions and hypothetical conditions; and
17 state that their use might have affected the assignment results; and
18 (xi) include a signed certification in accordance with Standards Rule 2-3.

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

- 21 (i) state the identity of the client and any intended users, by name or type;
22 (ii) state the intended use of the appraisal;²⁶
23 appraisal, including the physical and economic property characteristics relevant to the
24 assignment;
25 (iv) state the real property interest appraised;
26 (v) state the type and definition of value and cite the source of the definition;
27 (vi) state the effective date of the appraisal and the date of the report;
28 (vii) summarize the scope of work used to develop the appraisal;
29 (viii) summarize the information analyzed, the appraisal methods and techniques
30 employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of
31 the sales comparison approach, cost approach, or income approach must be explained;
32 (ix) state the use of the real estate existing as of the date of value and the use of the
33 real estate reflected in the appraisal; and, when an opinion of highest and best use was developed
34 by the appraiser, summarize the support and rationale for that opinion;
35 (x) clearly and conspicuously:
36 state all extraordinary assumptions and hypothetical conditions; and
37 state that their use might have affected the assignment results; and
38 (xi) include a signed certification in accordance with Standards Rule 2-3.

39 (c) The content of a Restricted Use Appraisal Report must be consistent with the intended
40 use of the appraisal and, at a minimum:

- 41 (i) state the identity of the client, by name or type;
42 (ii) and state a prominent use restriction that limits use of the report to the client
43 and warns that the appraiser's opinions and conclusions set forth in the report may not be
44 understood properly without additional information in the appraiser's workfile;
45 (iii) state information sufficient to identify the real estate involved in the appraisal;
46 (iv) state the real property interest appraised;

- (v) state the type of value and cite the source of its definition;
- (vi) state the effective date of the appraisal and the date of the report;
- (vii) state the scope of work used to develop the appraisal;
- (viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;
- (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, state that opinion;
- (x) clearly and conspicuously:
 - state all extraordinary assumptions and hypothetical conditions; and
 - state that their use might have affected the assignment results; and
- (xi) include a signed certification in accordance with Standards Rule 2-3.

36. **The USPAP ETHICS RULE** states:

An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.

An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. 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.

Conduct:

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

An appraiser:

- must not perform an assignment with bias;
 - must not advocate the cause or interest of any party or issue;
 - must not accept an assignment that includes the reporting of predetermined opinions and conclusions;
 - must not misrepresent his or her role when providing valuation services that are outside of appraisal practice;
 - must not communicate assignment results with the intent to mislead or to defraud;
 - must not use or communicate a report that is known by the appraiser to be misleading or fraudulent;
 - must not knowingly permit an employee or other person to communicate a misleading or fraudulent report;
 - 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;
 - must not engage in criminal conduct;
 - must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE;
- and
- must not perform an assignment in a grossly negligent manner.

If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification:

- any current or prospective interest in the subject property or parties involved; and
- any services regarding the subject property performed by the appraiser within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.

1 **Management:**

2 An appraiser must disclose that he or she paid a fee or commission, or gave a thing of
3 value in connection with the procurement of an assignment.

4 An appraiser must not accept an assignment, or have a compensation arrangement for an
5 assignment, that is contingent on any of the following:

- 6 1. the reporting of a predetermined result (e.g., opinion of value);
- 7 2. a direction in assignment results that favors the cause of the client;
- 8 3. the amount of a value opinion;
- 9 4. the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or
- 10 5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to
11 the assignment's purpose.

12 An appraiser must not advertise for or solicit assignments in a manner that is false, misleading, or
13 exaggerated. An appraiser must affix, or authorize the use of, his or her signature to certify
14 recognition and acceptance of his or her USPAP responsibilities in an appraisal, appraisal review,
15 or appraisal consulting assignment (see Standards Rules 2-3, 3-6, 5-3, 6-9, 8-3, and 10-3). An
16 appraiser may authorize the use of his or her signature only on an assignment-by-assignment
17 basis. An appraiser must not affix the signature of another appraiser without his or her consent.

18 **Confidentiality:**

19 An appraiser must protect the confidential nature of the appraiser-client relationship.
20 An appraiser must act in good faith with regard to the legitimate interests of the client in the use
21 of confidential information and in the communication of assignment results.

22 An appraiser must be aware of, and comply 273 with, all confidentiality and privacy laws and
23 regulations applicable in an assignment.

24 An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone
25 other than:

- 26 the client;
- 27 persons specifically authorized by the client;
- 28 state appraiser regulatory agencies;
- third parties as may be authorized by due process of law; or
- a duly authorized professional peer review committee except when such disclosure to a
committee would violate applicable law or regulation. A member of a duly authorized
professional peer review committee must not disclose confidential information presented to the
committee.

RECORD KEEPING RULE

 An appraiser must prepare a workfile for each appraisal, or appraisal review, or appraisal
consulting assignment. A workfile must be in existence prior to the issuance of any report. A
written summary of an oral report must be added to the workfile within a reasonable time after the
issuance of the oral report.

 The workfile must include:

- the name of the client and the identity, by name or type, of any other intended users;
- true copies of any written reports, documented on any type of media. (A true copy is a replica
of the report transmitted to the client. A photocopy or an electronic copy of the entire report
transmitted to the client satisfies the requirement of a true copy.);
- summaries of all oral reports or testimony, or a transcript of testimony, including the
appraiser's signed and dated certification;
- all other data, information, and documentation necessary to support the appraiser's opinions
and conclusions and to show compliance with USPAP, or references to the location(s) of such
other documentation; and

1 a workfile in support of a Restricted Use Appraisal Report must be sufficient for the appraiser
2 to produce a Summary Appraisal Report (for assignments communicated under STANDARDS 2
and 8) or an Appraisal Report (for assignments communicated under STANDARD 10).

3 An appraiser must retain the workfile for a period of at least five years after preparation or at least
4 two years after final disposition of any judicial proceeding in which the appraiser provided
5 testimony related to the assignment, whichever period expires last.

6 An appraiser must have custody of the workfile, or make appropriate workfile retention, access,
7 and retrieval arrangements with the party having custody of the workfile. This includes ensuring
8 that a workfile is stored in a medium that is retrievable by the appraiser throughout the prescribed
9 record retention period.

10 An appraiser having custody of a workfile must allow other appraisers with workfile obligations
11 related to an assignment appropriate access and retrieval for the purpose of:

12 submission to state appraiser regulatory agencies;

13 compliance with due process of law;

14 submission to a duly authorized professional peer review committee; or

15 compliance with retrieval arrangements.

16 An appraiser who willfully or knowingly fails to comply with the obligations of this RECORD
17 KEEPING RULE is in violation of the ETHICS RULE.

18 **37. The COMPETENCY RULE states:**

19 An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary
20 competency to perform the assignment; or (3) decline or withdraw from the assignment.

21 Being Competent The appraiser must determine, prior to accepting an assignment, that he or she
22 can perform the assignment competently. Competency requires:

23 1. the ability to properly identify the problem to be addressed; and

24 2. the knowledge and experience to complete the assignment competently; and

25 3. recognition of, and compliance with, laws and regulations that apply to the appraiser or to the
26 assignment.

27 **Acquiring Competency**

28 If an appraiser determines he or she is not competent prior to accepting an assignment, the
29 appraiser must:

30 1. disclose the lack of knowledge and/or experience to the client before accepting the assignment;

31 2. take all steps necessary or appropriate to complete the assignment competently; and

32 3. describe, in the report, the lack of knowledge and/or experience and the steps taken to complete
33 the assignment competently.

34 When facts or conditions are discovered during the course of an assignment that cause an
35 appraiser to determine, at that time, that he or she lacks the required knowledge and experience to
36 complete the assignment competently, the appraiser must:

37 1. notify the client, and

38 2. take all steps necessary or appropriate to complete the assignment competently, and

39 3. describe, in the report, the lack of knowledge and/or experience and the steps taken to
40 complete the assignment competently.

41 **Lack of Competency**

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

44 1. identify the problem to be solved;

45 2. determine and perform the scope of work necessary to develop credible assignment results; and

46 3. disclose the scope of work in the report.

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

3 **Problem Identification**

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

6 **Scope of Work Acceptability**

7 The scope of work must include the research and analyses that are necessary to develop
8 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 a client's objectives to
cause the assignment results to be biased.

9 **Disclosure Obligations**

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

11 **JURISDICTIONAL EXCEPTION RULE**

12 If any applicable law or regulation precludes compliance with any part of USPAP, only
that part of USPAP becomes void for that assignment.

13 In an assignment involving a jurisdictional exception, an appraiser must:

- 14 1. identify the law or regulation that precludes compliance with USPAP;
- 15 2. comply with that law or regulation;
- 16 3. clearly and conspicuously disclose in the report the part of USPAP that is voided by that law or
regulation; and
- 17 4. cite in the report the law or regulation requiring this exception to USPAP compliance.

18 **FINES**

19 38. Business and Professions Code section 11316, subdivision (a) states:

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

25 **COST RECOVERY**

26 39. Code section 11409, subdivision (a) states:

27 "(a) Except as otherwise provided by law, any order issued in resolution of a disciplinary
28 proceeding may direct a licensee, applicant for licensure, person who acts in a capacity that
requires a license under this part, registrant, applicant for a certificate of registration, course
provider, applicant for course provider accreditation, or a person who, or entity that, acts in a

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

4 **22nd STREET WEST PROPERTY**

5 40. On or about May 19, 2008, Respondent completed a real estate appraisal report for
6 the property located at 43348 22nd Street West, Lancaster, California. The report contained
7 numerous errors or omissions, and was misleading.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Violation of USPAP Provisions)

10 41. Respondent is subject to disciplinary action under Business and Profession Code
11 sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10,
12 section 3701, California Code of Regulations, title 10, section 3721, subdivision (a)(2), (a)(4),
13 (a)(6), (a)(7); in that Respondent failed to conform to and observe the provisions of USPAP as
14 follows:

15 a. Respondent indicated that property values were “stable” in the neighborhood
16 section of the report while published reports describe declining property values for the subject
17 values for the subject area at the time of the report. (S.R. 1-2(e)(i), 1-3(a) and 2-2(b)(viii));

18 b. Respondent failed to adequately identify the characteristics of the subject property.
19 The subject lot size is 6,892 square feet, not 14,500 square feet as stated in Respondent’s report.
20 Respondent’s report describes the subject as having three bedrooms and three bathrooms while
21 the sketch indicates six bedrooms and four bathrooms. The sketch did not include dimensions or
22 gross living area calculations. The specific Zoning Classification and Zoning Description were
23 reversed in the report, the report identifies both a slab and crawl space for the foundation but
24 only has a concrete slab, the effective age is noted as 24-28 years when the subject was only four
25 years old, and the subject has a concrete tile roof while the roofing is described as “ashingle”.
26 (S.R. 1-2(e)(i) and 2-2(b)(iii));

27 c. Respondent failed to complete a credible Sales Comparison Approach and failed to
28 adequately analyze the comparables utilized in the Sales Comparison Approach. Comparable

1 One, 2244 Westfield Court, was located in a gated development while the subject was not in a
2 gated development, and was situated on a dissimilar site of 20,423 square feet while the subject's
3 site was 6,892 square feet. Comparable two, 43900 Clark Court, had a pool which was not
4 addressed in Respondent's report. Comparable Three, 43333 21st Street West, transferred by a
5 Trustee's Deed Upon Sale and was not an open market transfer. Comparable Four, 43315 Flag
6 Street, was an excessively dated sale considering the declining market conditions at the time of
7 the report. Comparable Five, 41867 Montallegro Street, and Comparable Six, 41828 Piazza
8 Court, were located in a gated development over two miles from the subject. (S.R. 1-4(a), 1-6(a),
9 2-2(b)(viii) and the Scope of Work Rule);

10 d. Respondent failed to provide an adequate analysis in the Cost Approach. The Cost
11 Approach did not provide a quality rating from a cost service, did not provide an "as-is" value of
12 the site improvements, and did not include the gross living area calculations. (S.R. 1-4(b)(ii),
13 1-4(b)(iii) and 2-2(b)(viii));

14 e. Respondent failed to analyze the agreement of sale and listing for the subject
15 property. The report did not include the list date, list price, days on the market, how it was
16 marketed, or the source of the listing information. Respondent's report did not provide the
17 amount of the seller's contribution to closing costs. (S.R. 1-5(a) and 2-2(b)(viii));

18 f. Respondent provided a misleading analysis of all sales of the subject property that
19 occurred within the three years prior to the effective date of the appraisal report. (S.R. 1-5(b) and
20 2-2(b)(viii));

21 g. Complainant refers to and by this reference incorporates the allegations set forth
22 above in paragraphs 41 (a)-(e), inclusive, as though set forth fully, Respondent failed to correctly
23 employ those recognized methods and techniques that are necessary to produce a credible
24 appraisal. (S.R. 1-1(a));

25 h. Complainant refers to and by this reference incorporates the allegations set forth
26 above in paragraphs 41 (a)-(e), inclusive, as though set forth fully, Respondent committed
27 substantial errors of omission or commission that significantly affects the appraisal.
28 (S.R. 1-1(b));

1 i. Complainant refers to and by this reference incorporates the allegations set forth
2 above in paragraphs 41(a)-(f), inclusive, as though set forth fully, Respondent failed to clearly
3 and accurately set forth the appraisal in a manner that would not be misleading and failed to
4 report sufficient information to enable the intended users of the appraisal to understand the
5 appraisal properly. (S.R. 2-1(a) and 2-1(b)); and

6 j. Complainant refers to and by this reference incorporates the allegations set forth
7 above in paragraphs 41 (a)-(f), inclusive, as though set forth fully, Respondent failed to take all
8 steps necessary or appropriate to complete the assignment competently (Competency Rule).

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Misleading and Inaccurate Appraisal Report)

11 42. Respondent is subject to disciplinary action under sections 11313, 11314 and 11319,
12 in conjunction with California Code of Regulations, title 10, sections 3701, 3705, and 3721,
13 subdivisions (a)(2), (a)(4), (a)(6) and (a)(7) in that on the 22nd Street West Property,
14 Respondent's appraisal report contained numerous errors or omissions that were misleading and
15 inaccurate in violation of the USPAP, as more fully set forth in paragraphs 41 (a)-(j).
16 Complainant refers to and by this reference incorporates the allegations set forth above in
17 paragraph 41 (a)-(j), inclusive, as though set forth fully.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (Negligence)

20 43. Respondent is subject to disciplinary action under Business and Profession
21 Code sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title
22 10, section 3721, subdivision (a)(6), for violating USPAP Standards Rule 1-1, subdivisions (b)
23 and (c) , in that when developing the real estate appraisals for the 22nd Street West Property,
24 Respondent committed substantial errors of omission or commission and made a series of errors,
25 as set forth above in paragraphs 40 through 41, inclusive, which affected the credibility of those
26 results. Complainant refers to and by this reference incorporates the allegations set forth above
27 in paragraphs 40 through 41 inclusive, as though set forth fully.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Incompetence)

3 44. Respondent is subject to disciplinary action under Business and Profession
4 Code sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title
5 10, section 3721, subdivision (a)(6), for violating USPAP Competency Rule, and the Conduct
6 section of the USPAP Ethics Rule, in that Respondent failed to take all necessary or appropriate
7 steps to complete the appraisal assignments pertaining to the 22nd Street West Property
8 competently, as more fully set forth in paragraphs 40 through 41, inclusive. Complainant refers
9 to and by this reference incorporates the allegations set forth above in paragraphs 40 through 41,
10 inclusive, as though set forth fully.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 (Failure to Provide Workfile)

13 45. Respondent is subject to disciplinary action under Business and Profession Code
14 section 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10,
15 section 3721, subdivision (a)(7), for violating section 11328, in that Respondent failed to submit,
16 upon OREA's request a copy of the appraisal report, workfile, and all supporting documentation
17 for the 22nd Street West Property to the OREA which Respondent is to keep in accord with
18 USPAP, Ethic Rule, Record Keeping Section. Complainant incorporates by reference as though
19 set forth fully the allegations of paragraphs 40 through 44, inclusive, above.

20 **SIMPSON AVENUE PROPERTY**

21 46. On or about February 15, 2012, Respondent completed a real estate appraisal report
22 for the property located at 6254 Simpson Avenue, North Hollywood, California. The report
23 contained numerous errors or omissions, and was misleading.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 (Violation of USPAP Provisions)

26 47. Respondent is subject to disciplinary action under Business and Profession Code
27 sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10,
28 section 3701, California Code of Regulations, title 10, section 3721, subdivision (a)(2), (a)(4),

1 (a)(6), (a)(7); in that Respondent failed to conform to and observe the provisions of USPAP as
2 follows:

3 a. Respondent failed to adequately analyze the comparables utilized in the Sales
4 Comparison Approach. Comparable One, 6253 Simpson Avenue, is situated on a 6,754 square
5 foot site, not a 8,463 square foot site as described in Respondent's report, and was 77 years old,
6 not 33 years old as described in Respondent's report. Comparable Two, 6255 Laurelgrove
7 Avenue, is located across from an elevated freeway. However, this readily apparent external
8 influence was not disclosed and analyzed in Respondent's report. Comparable Three, 5859
9 Bucknell Avenue, backs a freeway. However, this readily apparent external influence was not
10 disclosed and analyzed in Respondent's report. Comparable Four, 6249 Tujunga Avenue, is
11 located on a main traffic road resulting in higher than typical traffic. However, this readily
12 apparent external influence was not disclosed and analyzed in Respondent's report. (S.R. 1-4(a),
13 1-6(a) and 2-2(b)(viii));

14 b. Respondent failed to provide an adequate analysis in the Cost Approach. The Cost
15 Approach did not provide a quality rating from a cost service, did not provide an "as-is" value of
16 the site improvements, and did not include the gross living area calculations. (S.R. 1-4(b)(ii), 1-4
17 (b)(iii) and 2-2(b)(viii));

18 c. Complainant refers to and by this reference incorporates the allegations set forth
19 above in paragraphs 45 (a)-(b), inclusive, as though set forth fully, Respondent failed to correctly
20 employ those recognized methods and techniques that are necessary to produce a credible
21 appraisal. (S.R. 1-1(a));

22 d. Complainant refers to and by this reference incorporates the allegations set forth
23 above in paragraphs 47 (a)-(b), inclusive, as though set forth fully, Respondent committed
24 substantial errors of omission or commission that significantly affects the appraisal.
25 (S.R. 1-1(b));

26 e. Complainant refers to and by this reference incorporates the allegations set forth
27 above in paragraphs 47 (a)-(b), inclusive, as though set forth fully, Respondent failed to clearly
28 and accurately set forth the appraisal in a manner that would not be misleading and failed to

1 report sufficient information to enable the intended users of the appraisal to understand the
2 appraisal properly. (S.R. 2-1(a) and 2-1(b)).

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 (Misleading and Inaccurate Appraisal Report)

5 48. Respondent is subject to disciplinary action under sections 11313 and 11319, in
6 conjunction with California Code of Regulations, title 10, sections 3701, 3705, and 3721,
7 subdivisions (a)(2), (a)(4), (a)(6) and (a)(7) in that on the Simpson Avenue Property,
8 Respondent's appraisal report contained numerous errors or omissions that were misleading and
9 inaccurate in violation of the USPAP, as more fully set forth in paragraphs 47(a)-(e).
10 Complainant refers to and by this reference incorporates the allegations set forth above in
11 paragraph 47(a)-(e), inclusive, as though set forth fully.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 (Negligence)

14 49. Respondent is subject to disciplinary action under Business and Profession
15 Code sections 11313, 11314 and 11319, in conjunction with California Code of Regulations, title
16 10, section 3721, subdivision (a)(6), for violating USPAP Standards Rule 1-1, subdivisions (b)
17 and (c), in that when developing the real estate appraisals for the Simpson Avenue Property,
18 Respondent committed substantial errors of omission or commission and made a series of errors,
19 as set forth above in paragraphs 46 through 47, inclusive, which affected the credibility of those
20 results. Complainant refers to and by this reference incorporates the allegations set forth above
21 in paragraphs 46 through 47 inclusive, as though set forth fully.

22 **NINTH CAUSE FOR DISCIPLINE**

23 (Failure to Provide Workfile)

24 50. Respondent is subject to disciplinary action under Business and Profession Code
25 section 11313, 11314 and 11319, in conjunction with California Code of Regulations, title 10,
26 section 3721, subdivision (a)(7), for violating section 11328, in that Respondent failed to submit,
27 upon OREA's request a copy of the appraisal report, workfile, and all supporting documentation
28 for the 22nd Street West Property to the OREA which Respondent is to keep in accord with

1 USPAP, Ethic Rule, Record Keeping Section. Complainant incorporates by reference as though
2 set forth fully the allegations of paragraphs 46 through 47, inclusive, above.

3 **PRAYER**

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

- 7 1. Revoking or suspending Real Estate Appraiser License Number AR038873, issued to
8 Joel W. Quarry
- 9 2. Ordering Joel W. Quarry to pay the Director of the Office of Real Estate Appraisers
10 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 11409;
- 12 3. Ordering Joel W. Quarry to pay the Director of the Office of Real Estate Appraisers a
13 fine pursuant to Business and Professions Code section 11316; and
- 14 4. Taking such other and further action as deemed necessary and proper.

15
16
17 DATED: 5/3/13

Original Signed

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

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