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

In the Matter of the Accusation Against: **RICHARD PUCKETT** **4589 W. 141st Street** **Hawthorne, CA 92253** **Trainee Appraiser License No. AT039821** Respondent.	Case No. C080429-04 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 21, 2011, Elizabeth Seaters, in her official capacity as the Chief of Enforcement of the Office of Real Estate Appraisers (Complainant), filed Accusation No. C080429-04 against Richard Puckett (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about March 17, 2006, the Director of the Office of Real Estate Appraisers (Director) issued Trainee Appraiser License No. AT039821 to Respondent. The Trainee Appraiser License expired on March 16, 2010, and has not been renewed.

3. On or about April 30, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. C080429-04, 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:

4589 W. 141st Street
Hawthorne, CA 92253.

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. The aforementioned documents were returned by the U.S. Postal Service marked "Moved Left No Address." 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. C080429-04.

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 Director finds Respondent is in default. The 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. C080429-04, finds that the charges and allegations in Accusation No. C080429-04, are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Richard Puckett has subjected his Trainee Appraiser License No. AT039821 to discipline.

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

3. The Director of the Office of Real Estate Appraisers is authorized to revoke Respondent's Trainee 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. California Code of Regulations, title 10, sections 3721(a)(6) and (a)(7), 3701, 3702(a)(1) and (a)(3), 3568(f), and USPAP (Uniform Standards of Professional Appraisal Practice) Standards Rules 1-1(a), 1-1(b), 1-2(h), 1-4(a), 2-1(a), 2-1(b), 2-2, 2-2(b)(vii), 2-2(b)(viii), and the Conduct Section of the USPAP Ethics Rule.

ORDER

IT IS SO ORDERED that Trainee Appraiser License No. AT039821, heretofore issued to Respondent Richard Puckett, is revoked.

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 July 27, 2012.

It is so ORDERED July 10, 2012

Original Signed

FOR THE DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS

40561215.DOC
DOJ Matter ID:SF2012204307

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 J. PUCKETT** 4589 W. 141st Street Hawthowe, CA 92253 **Residential Appraiser License No. AT039821** Respondent.	Case No. C080429-04 **ACCUSATION**

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 Complainant, Kathleen S. Chovan.

2. On or about March 17, 2006, the Director of the Office of Real Estate Appraisers ('Director") issued Residential Appraiser license Number AT039821 to Richard J. Puckett ("Respondent"). Respondent's real estate appraiser license was in full force and effect at all times relevant to the charges brought herein and expired on March 16, 2010.

///

///

///

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.

6. 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.

FINES

7. 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.

COST RECOVERY

8. 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.

REGULATORY PROVISIONS

9. 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.

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

> (1) The Director finds and declares as follows:
>
> 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 ....

11. 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.

12. Regulation section 3721 states, in pertinent part:

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

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)

(EFFECTIVE JANUARY 1, 2008)[1]

13. 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.

14. USPAP Standard Rule 1-1 states:

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;

15. USPAP Standards Rule 1-2 states:

In developing a real property appraisal, an appraiser must:

...

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

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

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

16. USPAP Standards Rule 1-3 states:

When necessary for credible assignment results in developing a market value opinion, an appraiser must:
(a) identify and analyze the effect on use and value of existing land use

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

regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and
(b) develop an opinion of the highest and best use of the real estate.

17. 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.

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

18. USPAP Standards Rule 1-5 states:

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:

(a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and
(b analyzes all sales of the subject property that occurred with the three (3) years prior to the effective date of the appraisal.

19. USPAP Standards 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.

20. 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.

21. 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.
(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal, and, at a minimum...

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

(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.

(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 the 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.

22. 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. ...

23. The Scope of Work Rule in USPAP states:

SCOPE OF WORK RULE

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

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

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

Problem Identification

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

Scope of Work Acceptability

The scope of work must include the research and analysis that are necessary to develop credible assignment results

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

An appraiser must not allow the intended use of an assignment or client's objectives to cause the assignment results to be biased.

Disclosure Obligation

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

FACTS

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

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

BASIS FOR DISCIPLINE

25. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (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

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

SECOND CAUSE FOR DISCIPLINE

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

THIRD CAUSE FOR DISCIPLINE

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

FOURTH CAUSE FOR DISCIPLINE

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

///

///

FIFTH CAUSE FOR DISCIPLINE

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

SIXTH CAUSE FOR DISCIPLINE

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

SEVENTH CAUSE FOR DISCIPLINE

32. Improper License Level of supervisor – Respondent violated the California Code of Regulations, section 3568(f) in that Respondent failed to be supervised by an appraiser licensed at the certified level.

EIGHTH CAUSE FOR DISCIPLINE

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

PRAYER

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

1. Revoking the right of Richard J. Puckett to renew Residential Appraiser License Number AT039821.

2. Ordering Richard J. Puckett to pay the Director of the Office of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;

3. Ordering Richard J. Puckett 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: September 21, 2011

Original Signed

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