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

In the Matter of the Accusation Against:  
**TYLER R. GAYLER**  
**44489 Town Center Way D156**  
**Palm Desert, CA 92260**  
**Real Estate Appraiser License No.**  
**AR040746**  
  
Respondent.

Case No. C090413-06

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 12, 2012, Elizabeth Seaters, acting solely in her official capacity as the Acting Chief of Enforcement, acting on behalf of the Office of Real Estate Appraisers (Complainant), filed Accusation No. C090413-06 against Tyler R. Gayler (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about July 19, 2006, the Director of the Office of Real Estate Appraisers (Director) issued Real Estate Appraiser License No. AR040746 to Respondent. The Real Estate Appraiser License expired on July 18, 2010, and has not been renewed.

3. On or about March 12, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. C090413-06, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of

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

2 Respondent's address of record was and is:

3 44489 Town Center Way D156, Palm Desert, CA 92260.

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

7 5. The Domestic Return Receipt was returned by the U.S. Postal Service, indicating  
8 receipt of the documents.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
17 C090413-06.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Deputy Director  
24 finds Respondent is in default. The Deputy Director will take action without further hearing and,  
25 based on the relevant evidence contained in the Default Decision Evidence Packet in this matter,  
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
27 therein on file at the Director's offices regarding the allegations contained in Accusation No.  
28 C090413-06, finds that the charges and allegations in Accusation No. C090413-06, are separately  
and severally, found to be true and correct by clear and convincing evidence.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Tyler R. Gayler has subjected his  
3 Real Estate Appraiser License No. AR040746 to discipline.

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

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

9 a. Title 10, California Code of Regulations, sections 3721(a)(6) and (a)(7), 3701,  
10 3702(a)(1) and (a)(3), and Business and Professions Code section 11328.

11 ORDER

12 IT IS SO ORDERED that Real Estate Appraiser License No. AR040746, heretofore issued  
13 to Respondent Tyler R. Gayler, is revoked.

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

18 This Decision shall become effective on May 10, 2012.

19 It is so ORDERED May 10, 2012

20 **Original Signed**

21  
22 FOR THE DEPUTY DIRECTOR OF THE OFFICE  
OF REAL ESTATE APPRAISERS

23 20597958.DOC  
24 DOJ Matter ID:SF2012204315

25 Attachment:  
26 Exhibit A: Accusation

# Exhibit A

Accusation

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

5 **BEFORE THE**  
6 **DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**  
7 **STATE OF CALIFORNIA**

8  
9 **In the Matter of the Accusation Against:**

Case No. C 090413-06

10 **TYLER R. GAYLER**  
44489 Town Center Way D156  
11 Palm Desert, CA 92260

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

12 **Certified Residential Appraiser License No.**  
13 **AR040746**

14 **Respondent.**

15  
16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about July 19, 2006, the Director of the Office of Real Estate Appraisers  
22 ("Director") issued Certified Residential Appraiser license Number AR040746 to Tyler R. Gayler  
23 ("Respondent"). Respondent's real estate appraiser license was in full force and effect at all  
24 times relevant to the charges brought herein.

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1 **JURISDICTION**

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

5 4. Code section 11313 requires OREA to adopt and enforce rules and regulations as are  
6 determined reasonably necessary to carry out the purposes of the Real Estate Appraisers'  
7 Licensing and Certification law.

8 5. Code section 11314 states, in pertinent part:

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

11 **FINES**

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

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

18 **MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE**

19 7. Code section 11319 states:

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

25 8. Code section 11328 states:

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

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

5 **COST RECOVERY**

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

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

14 **REGULATORY PROVISIONS**

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

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

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

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

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1           12. Regulation section 3701 states:

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

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

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

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

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

17           14. Regulation section 3705 (a) states:

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

24           15. Regulation 3721 states, in pertinent part:

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

1 (6) Violated any provision of USPAP

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

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

8 **(EFFECTIVE JANUARY 1, 2006)<sup>1</sup>**

9 16. USPAP Standard 1 states:

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

13 17. USPAP Standard 2 states:

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

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

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

19  
20 **UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)**

21 **(EFFECTIVE JANUARY 1, 2008)<sup>2</sup>**

22 19. USPAP Standard 1 states:

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25 1. USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report  
26 for an appraisal. The 2006-2007 edition of USPAP (effective July 1, 2006, through December 31, 2007), was applicable to the appraisal in this  
case, which had a report date of December 20, 2006.

27 2. The 2008-2009 edition of USPAP (effective January 1, 2008, through December 31, 2009), was applicable to the appraisal in this  
28 case, which had a report date of May 10, 2008.

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

4 20. USPAP Standard 2 states:

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

7 21. The Ethics Rule of USPAP states, in pertinent part:

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

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11 **PROPERTIES APPRAISED**

12 22. On December 20, 2006, Respondent completed a real estate appraisal report for  
13 property located at 57226 Castro Road, Desert Hot Springs, California, with a concluded opinion  
14 of value at \$530,000.00. The property consisted of a 26, 640 square foot lot improved with an  
15 approximately 2,098 square foot, 8 rooms, 3 bedrooms, 3 bathrooms, 1 story, home built in 1988.

16 23. On April 10, 2009, Complainant received a request to initiate a disciplinary action  
17 against Respondent regarding Respondent's appraisal of the property described in paragraph 22,  
18 above.

19 24. On May 10, 2008, Respondent completed a real estate appraisal report for property  
20 located at 13019 Caliente Drive, Desert Hot Springs, California, with a concluded opinion of  
21 value at \$375,000.00. The property consisted of a 7,200 square foot lot improved with an  
22 approximately 1,510 square foot, 5 rooms, 3 bedrooms, 2 bathrooms in the first unit and 1,511  
23 square foot, 5 rooms, 3 bedrooms, 2 bathrooms in the second unit one-story, home built in 2008.

24 25. On March 8, 2010, Complainant received a request to initiate a disciplinary action  
25 against Respondent regarding Respondent's appraisal of the property described in paragraph 24,  
26 above.

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1 **BASIS FOR DISCIPLINE**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Failure to Respond or Cooperate in an Investigation of Alleged**

4 **USPAP Violations – 57226 Castro Road, Desert Hot Springs, California)**

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

8 27. Respondent is subject to disciplinary action under Business and Professions Code  
9 section 11328 for failing to cooperate with the investigation and provide a copy of the appraisal  
10 report and associated workfile for the property located at 57226 Castro Road, Desert Hot Springs,  
11 California when requested to do so, as follows:

12 28. On June 23, 2009, the Office of Real Estate Appraisers (OREA) sent a letter  
13 pursuant Code section 11328 requesting a copy of the appraisal and the appraisal work file, to be  
14 received by Complaint within 30 days of the date of the letter.

15 29. On July 20, 2009, Respondent called and talked to Elizabeth Seaters and asked for  
16 an extension on responding to the 30 day demand letter. Respondent stated he does not check his  
17 mail and just noticed it. Respondent stated he is very upset and wants an opportunity to talk to  
18 someone. An extension was given to the Respondent until July 30, 2009.

19 30. On July 30, 2009, Respondent e-mailed appraisal report, rebuttal to review and  
20 MLS listings for subject and residence next door (Comparable Sale Four).

21 31. On August 19, 2009, Respondent was contacted by Bruce Crandall who requested  
22 the rest of the work file. Respondent stated he will PDF MLS for remaining properties utilized in  
23 review and his report. An e-mail was sent requesting the additional information.

24 32. On September 16, 2009, Respondent was contacted by Bruce Crandall to inform  
25 him the requested information was not received. Respondent stated that he had responded to the  
26 previous e-mail shortly after it was sent. Respondent requested another e-mail, which was sent.

27 33. On March 8, 2010, a second complaint on the Respondent by the same  
28 Complainant was received.



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

4           44.     Respondent is subject to disciplinary action under Business and Professions Code  
5 section 11328 for failing to cooperate with the investigation and provide a copy of the appraisal  
6 report and associated workfile for the property located at 13019 Caliente Drive, Desert Hot  
7 Springs, California when requested to do so, as follows:

8           45.     On March 24, 2010 a demand letter requesting the balance of the demand material  
9 for the Castro Road complaint and (complaint 1) a demand for the Caleinte property was sent to  
10 the Respondent.

11          46.     On May 5, 2010, the Respondent was called to see why he had not responded to  
12 the letter dated March 24, 2010. Respondent stated he did not receive the letter. Respondent  
13 asked that the letter be resent to 6147 O'Bannon Road, Las Vegas, Nevada 89146. Respondent  
14 has addresses in California and Nevada. Resent 15 day demand letter to Nevada address.

15          47.     On May 20, 2010, Respondent called asking for additional time to submit the  
16 requested information. Respondent was given until May 24, 2010 to submit the additional  
17 information.

18          48.     On June 3, 2010, a message was left for the Respondent asking why he had not  
19 submitted the requested information from the demand letter he received. Respondent returned  
20 call and asked for additional time. Respondent was told the requested information must be  
21 submitted by June 7, 2010.

22          49.     On July 15, 2010, final demand letters were sent to addresses in Palm Desert,  
23 California and Las Vegas, Nevada.

24          50.     On July 26, 2010, the final demand letter for the Palm Desert address was returned  
25 because of a typographical error in the numerical portion of the address.

26          51.     On August 4, 2010, a final demand letter with the correct address was mailed to  
27 the Palm Desert address.

28          52.     On July 22, 2010, the return receipt card was returned from the post office for

1 Palm Desert address.

2 53. On August 9, 2010, the return receipt card was returned from the post office for  
3 the Las Vegas address.

4 **PRAYER**

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

8 1. Revoking or suspending Tyler R. Gayler Certified Appraiser License Number  
9 AR040746, issued to Tyler R. Gayler

10 2. Ordering Tyler R. Gayler to pay the Director of the Office of Real Estate Appraisers a  
11 fine pursuant to section 11316(a); and

12 3. Taking such other and further action as deemed necessary and proper.

13 ***Original Signed***

14 DATED: March 15, 2012

15 \_\_\_\_\_  
16 Elizabeth Seaters  
17 Acting Chief of Enforcement  
18 Office of Real Estate Appraisers  
19 State of California  
20 *Complainant*

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