

**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. C20131106-06

Kimberly D. Vaterlaus,
8120 Zenith Dr
Citrus Heights, CA 95621

Real Estate Appraiser License No. 044276

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 11-23-15.

It is so ORDERED 10-22-15.

Original Signed

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

1 Bureau of Real Estate Appraisers
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5 **BEFORE THE**
CHIEF OF THE BUREAU OF REAL ESTATE APPRAISERS
STATE OF CALIFORNIA

7 In the Matter of the Administrative Allegation of
8 Violation Against:

Case No. C20131106-06

9 **Kimberly D. Vaterlaus**
Real Estate Appraiser License No. 044276

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

10 Respondent.

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13 In the interest of a prompt and speedy settlement of this matter, consistent with the public
14 interest and mission of the Bureau of Real Estate Appraisers ("Bureau" or "BRE"), the parties
15 hereby agree to the following Stipulated Settlement and Disciplinary Order ("Stipulated
16 Settlement") which will be submitted to the Chief of the Bureau of Real Estate Appraisers
17 ("Bureau Chief" or "Chief of BRE") for approval and adoption as the final disposition of this
18 proceeding:

19 PARTIES

20 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
21 ("Complainant"), brings this action solely in her official capacity as Chief of Enforcement for
22 Complainant.

23 2. Kimberly D. Vaterlaus ("Respondent") is represented by attorney Todd Stevens.

24 3. On or about March 11, 2009, the Bureau issued Real Estate Appraiser License
25 Number 044276 to Respondent. Respondent's License was in full force and effect at all times
26 relevant to the attached administrative allegation of violation and unless renewed will expire on
27 March 10, 2017.

JURISDICTION

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2 4. The Bureau initiated an investigation resulting in administrative allegation of
3 violation.

4 5. When deemed by the Bureau Chief to be in the public interest, the Bureau Chief has
5 the authority under Business and Professions Code section 11315.5 to enter into a settlement
6 related to administrative allegation of violation of the Real Estate Appraisers' Licensing and
7 Certification Law or regulations promulgated pursuant thereto, upon any terms and conditions as
8 the Bureau Chief deems appropriate.

9 6. The administrative allegation of violation against Respondent is attached as Exhibit
10 "A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

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12 7. Respondent has carefully read and understands the charges and allegations in the
13 administrative allegation of violation. Respondent has also carefully read and understands the
14 effects of this Stipulated Settlement.

15 8. Respondent is fully aware of his or her legal rights in this matter, including the right
16 to a hearing on the administrative allegation of violation; the right to be represented by counsel at
17 his or her own expense; the right to confront and cross-examine the witnesses against him or her;
18 the right to present evidence and to testify on his or her own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

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1 Decision and Order. The course must be The Appraisal Foundation's National USPAP Course (or
2 its equivalent as determined solely by the Appraiser Qualifications Board (AQB) Course
3 Approval Program), and must be taught by an AQB Certified USPAP Instructor who is also a
4 Certified Residential or Certified General appraiser in good standing with BREA. The course
5 must administer a closed-book final examination. Respondent must submit proof of successful
6 completion of the course and final examination within six (6) months following the effective date
7 of the Decision and Order. Respondent understands that it is his or her responsibility to ensure
8 that the course meets all of the requirements listed above and to make all necessary and
9 preparatory arrangements to take the course. Educational courses imposed as a term or condition
10 of probation by the Chief of BREA may not be credited toward Respondent's continuing
11 education requirements required for renewal of Respondent's real estate appraiser license. Failure
12 to comply with the education requirements as contained in this Disciplinary Order shall result in
13 an automatic suspension of Respondent's real estate appraiser license. In order to reinstate
14 Respondent's license if it is automatically suspended for failure to comply with the education
15 requirement, Respondent must provide BREA with the following: (i) satisfactory verification of
16 the completion of the education course or courses imposed; (ii) completion and filing of a
17 reinstatement application; and (iii) payment of all applicable fees, fines, or penalties.

18 **4. Proof of Employment or Appraisal Log/Work Samples.** Commencing on the
19 effective date of the Decision and Order and continuing for the entire probationary period,
20 Respondent shall either submit proof of employment with a county assessor's office every six (6)
21 months or Respondent shall maintain a log of all appraisals and appraisal reviews Respondent
22 performs on a Log of Appraisal Experience form provided by BREA and submit a complete and
23 accurate copy of the log of all appraisals and appraisal reviews completed every six (6) months.
24 Each six (6) month proof of employment or appraisal log shall be submitted to BREA within
25 thirty (30) days following the end of each six (6) month period.

26 If Respondent submits proof of employment, the proof must show dates of employment that
27 encompass the entire six (6) month period claimed and be accompanied by a statement from
28 Respondent that she has not performed any appraisal work outside of her position with the county

1 assessor's office. The proof must be satisfactory to BREa. If Respondent fails to submit
2 satisfactory proof of employment and her statement, probation shall be tolled for a period
3 equivalent to the period of noncompliance. Periods during which probation is tolled shall not
4 apply to reduction of the probationary period, suspension or any other disciplinary order or term.

5 If Respondent submits appraisal logs, Respondent understands BREa may select work
6 samples for review from each submitted six (6) month log. Failure to submit the log, or any
7 selected work samples, in compliance with these terms shall extend the probation for a period
8 equivalent to the period of noncompliance. Respondent shall complete a minimum of six (6)
9 appraisals every six (6) months. If Respondent fails to complete six (6) appraisals every six (6)
10 months, probation shall be tolled. Periods during which probation is tolled shall not apply to
11 reduction of the probationary period, suspension or any other disciplinary order or term.

12 **5. Monitoring.** Respondent shall be subject to, and shall permit and cooperate with,
13 monitoring and investigation of Respondent's professional practice. Such monitoring and
14 investigation shall be conducted by representatives of BREa.

15 **6. Monitoring Costs.** Respondent shall pay Four Hundred and Fifty Dollars (\$450.00)
16 every six (6) months for the entire probationary period to compensate BREa for enforcing the
17 order by examining the appraisal logs/work samples. Failure to pay monitoring costs shall be a
18 violation of probation.

19 **7 Obey All Laws.** Respondent shall comply with all federal, state and local laws, the
20 Real Estate Appraisers' Licensing and Certification Law and regulations promulgated thereto,
21 and conform to the minimum guidelines set forth under the Uniform Standards of Professional
22 Appraisal Practice ("USPAP"), and all other laws and regulations pertaining to real estate
23 appraisers.

24 **8. Comply With Probation.** Respondent shall fully comply with the terms and
25 conditions of the probation imposed by the Chief of BREa and shall cooperate fully with
26 representatives of BREa in its monitoring and investigation of Respondent's compliance with the
27 terms and conditions of probation.

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1 **9. Violation of Probation.** If Respondent violates probation in any respect, the Chief of
2 BREA, after giving Respondent notice and an opportunity to be heard, may revoke probation and
3 carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation
4 is filed against Respondent during probation, the Chief shall have continuing jurisdiction until the
5 matter is final, and the period of probation shall be extended until the matter is final.

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

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement. I understand the stipulation and the effect it will have on my Real Estate Appraiser License. I enter into this Stipulated Settlement voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Bureau Chief.

Original Signed

10.21.15

DATED: _____

Kimberly D. Vaterlaus
Respondent

I have read and fully discussed with Respondent the terms and conditions and other matters contained in the above Stipulated Citation and Order. I approve its form and content.

Original Signed

DATED: 10/21/15

Todd Stevens
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement is hereby respectfully submitted for the Bureau Chief's consideration.

Original Signed

DATED: 10/22/15

Elizabeth Seaters
Chief of Enforcement

Exhibit A

Administrative Allegation of Violation - Case No. C20131106-06

On or about September 30, 2009, Respondent completed an appraisal of the subject property located at 1600 Petersen Street, Suisun City, California. Respondent subsequently revised the appraisal report on two occasions, resulting in widely different conclusions. The revised appraisal reports contained errors or omissions in violation of the Uniform Standards of Professional Appraisal Practice (USPAP), California Business and Professions Code, and the California Code of Regulations listed as follows:

- a) Respondent did not analyze the market and determine the demand for the subject property as built. There is no discussion of the unit mix and the poor performance of the unit configuration (S.R. 1-2(e)(i) and 2-2(b)(iii));
- b) The Cost Approach was omitted from the report without justification. The subject property was just over a year old at the time of the appraisal. Data from a previous report completed by Respondent's firm indicated that the subject property could not be built for its market value, rendering it financially infeasible to construct (S.R. 1-4(b), and 2-2(b)(viii));
- c) The analysis for the Sales Comparison Approach was altered to accommodate a client's request. It fails to describe the comparables in sufficient detail and analyze them appropriately. Respondent increased the estimate of the value of the subject property on a price per square foot basis without support. This resulted in an inflated value indication from the Sales Comparison Approach (S.R. 1-4(a) and 2-2(b)(viii));
- d) The Income Approach was altered to accommodate a client's request. Respondent produced inflated value indications in the Income Approach (S.R. 1-4(i)(iii)(iv)):
 - i. Respondent failed to support her estimate of potential gross income as she increased the rent projections without support, resulting in an inflated projection of what income the subject property could produce;
 - ii. Respondent reduced the estimate of vacancy without support;
 - iii. As a product of (i) and (ii), Respondent increased the effective gross income without support;
 - iv. Respondent increased the selection of an effective gross income multiplier without justification;
- e) Respondent reported a misleading date of report (S.R. 2-2(b)(vi));
- f) Respondent failed to correctly employ those recognized methods and techniques necessary to produce credible results. Respondent committed substantial errors of omission or commission that significantly affected the appraisal. Respondent did not clearly and accurately set forth the appraisal in a manner that would not be misleading.

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Respondent failed to complete a report containing sufficient information to enable the intended users of the appraisal to understand the report properly (S.R. 1-1(a), 1-1(b), 2-1(a), and 2-1(b));

- g) Based on the findings noted in above items c) and d), Respondent failed to perform the assignment with impartiality, objectivity, and independence, and without accommodation of personal interests (Conduct section of the Ethics Rule); and
- h) Respondent produced the appraisal reports with the signature of another appraiser, who did not participate in, or authorize the revisions. Respondent's revisions to the appraisal reports were not based on corrections of errors, or better judgment. They were based on requests from the client. Respondent advocated the cause or interest of the client (Conduct Section of the Ethics Rule, Section 3702 (1) (3) and 3721(a) (2) (4) (7) of the California Code of Regulations).