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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 C071004-02
C090421-04

11 **THOMAS G. JENKINS**
12 1656 Observation Court
13 Antioch, CA 94531

A C C U S A T I O N

14 **Certified Residential Appraiser License No.**
AR032903

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
20 (Complainant) brings this Accusation solely in her official capacity as Acting Chief of
21 Enforcement for Complainant. Complainant is represented in this matter by Kamala Harris,
22 Attorney General of the State of California, by Char Sachson, Deputy Attorney General.
- 23 2. On or about July 20, 2005, the Director of the Office of Real Estate Appraisers
24 (Director) issued Residential Appraiser License Number AL032903 to Thomas G. Jenkins
25 (Respondent). Respondent's real estate appraiser license was in full force and effect at all times
26 relevant to the charges brought herein. Respondent subsequently upgraded to a Certified
27 Residential Appraisal License (AR032903) on or about February 15, 2008.

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Standards of Professional Appraisal Practice, and all supporting documentation and data to the office...

COST RECOVERY

9. 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, registrant, applicant for a certificate of registration, 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

10. 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.

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

(a) The Director finds and declares as follows:

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

(2) That registered Appraisal Management Companies are vested with a relationship of trust and confidence...; and

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

6 12. Regulation section 3705 (a) states:

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

13 13. Regulation 3721 states, in pertinent part:

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

18 ...

19 (6) Violated any provision of USPAP;

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

25 ...

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

2 **(EFFECTIVE JULY 1, 2006)¹**

3 14. USPAP Standard 1 states:

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

7 15. USPAP Standards Rule 1-1 states:

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

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

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

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

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

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

18 (a) identify the client and other intended users;

19 (b) identify the intended use of the appraiser's opinions and conclusions;

20 ...

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

23 (i) its location and physical, legal, and economic attributes;

24 ...

25 (f) identify any extraordinary assumptions necessary in the assignment;

26
27 ¹ USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report
28 for an appraisal. The July 1, 2006, edition of USPAP (effective July 1, 2006, through December 31, 2007), is applicable to the allegations in all
 seven counts of this accusation.

- 1 (g) identify any hypothetical conditions necessary in the assignment; and
2 (h) determine the scope of work necessary to produce credible assignment results
3 in accordance with the SCOPE OF WORK RULE.

4 17. USPAP Standards Rule 1-3 states:

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

7 (a) identify and analyze the effect on use and value of existing land use regulations,
8 reasonably probable modifications of such land use regulations, economic supply and
9 demand, the physical adaptability of the real estate, and market area trends; and

10 (b) develop an opinion of the highest and best use of the real estate.

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

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

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

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

19 (i) develop an opinion of site value by an appropriate appraisal method or
20 technique;

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

23 (iii) analyze such comparable data as are available to estimate the difference
24 between the cost new and the present worth of the improvements (accrued
25 depreciation).

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

28 / / /

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

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

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

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

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

20. 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

(b) reconcile the applicability or suitability of the approaches used to arrive at the value conclusion(s).

21. USPAP Standard 2 states:

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

22. USPAP Standards Rule 2-1 states:

Each written or oral real property appraisal report must:

1 (a) clearly and accurately set forth the appraisal in a manner that will not be
2 misleading;

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

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

7 23. USPAP Standards Rule 2-2 states in pertinent part:

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

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

13 (i) state the identity of the client and any intended users, by name or type;

14 (ii) state the intended use of the appraisal;

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

18 ...

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

20 (viii) summarize the information analyzed, the appraisal methods and
21 techniques employed, and the reasoning that supports the analyses, opinions, and
22 conclusions; exclusion of the sales comparison approach, cost approach, or income
23 approach must be explained;

24 (ix) state the use of the real estate existing as of the date of value and the use
25 of the real estate reflected in the appraisal; and, when an opinion of highest and best
26 use was developed by the appraiser, summarize the support and rationale for that
27 opinion;

28 (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.

24. USPAP Standards Rule 2-3 states:

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

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform 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

1 clearly specify which individuals did and which individuals did not make a personal
2 inspection of the appraised property.)

3 --- no one provided significant real property appraisal assistance to the person signing
4 this certification. (If there are exceptions, the name of each individual providing
5 significant real property appraisal assistance must be stated.)

6 25. The Ethics Rule of USPAP provides, in pertinent part:

7 To promote and preserve the public trust inherent in professional appraisal practice,
8 an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is
9 divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The
10 first three sections apply to all appraisal practice, and all four sections apply to appraisal practice
11 performed under STANDARDS 1 through 10.

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

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

18 Conduct:

19 An appraiser must perform assignments ethically and competently, in accordance
20 with USPAP and any supplemental standards agreed to by the appraiser in accepting the
21 assignment. An appraiser must not engage in criminal conduct. An appraiser must perform
22 assignments with impartiality, objectivity, and independence, and without accommodation of
23 personal interests.

24 In appraisal practice, an appraiser must not perform as an advocate for any party or
25 issue.

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

28 ///

1 An appraiser must not communicate results in a misleading or fraudulent manner. An
2 appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an
3 employee or other person to communicate a misleading or fraudulent report.

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

8 Management:

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

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

- 13 1. the reporting of a predetermined result (e.g., opinion of value);
14 2. a direction in assignment results that favors the cause of the client;
15 3. the amount of a value opinion;
16 4. the attainment of a stipulated result; or
17 5. the occurrence of a subsequent event directly related to the appraiser's opinions
18 and specific to the assignment's purpose.

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

21 ...

22 Record Keeping:

23 An appraiser must prepare a workfile for each appraisal, appraisal review, or
24 appraisal consulting assignment. The workfile must include:

- 25 • the name of the client and the identity, by name or type, of any other intended
26 users;
27 • true copies of any written reports, documented on any type of media;
28

- summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and
- 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.

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.

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

26. Competency Rule

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

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

27. 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

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

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

5 Problem Identification

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

9 Scope of Work Acceptability

10 The scope of work must include the research and analyses that are necessary to
11 develop credible assignment results.

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

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

16 Disclosure Obligation

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

19 **CASE NUMBER C071004-02**

20 **FIRST CAUSE FOR DISCIPLINE**

21 **Count One: Appraisal of 2974 Simas Avenue, Pinole, California**

22 28. On October 3, 2006, Respondent completed a real estate appraisal report of the single
23 family residential property located at 2974 Simas Avenue, Pinole, California. Improvements
24 consisted of a 1,528 square foot, single story, four bedroom, two bathroom residence situated on a
25 6,300 square foot, rectangular shaped, interior lot. The improvements were constructed in 1971
26 and were in good condition. The intended use of the appraisal report was for lending purposes.
27
28

1 29. 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 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
5 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and
6 2-2(b)(viii), in that the report failed to analyze several comparable sale properties
7 adequately, as follows:

8 i. Respondent's analysis of Comparable Sale One failed to adequately
9 address the superior physical characteristics of the comparable compared to the
10 subject property, including the larger site area, and the superior quality and condition
11 of the improvements.

12 ii. Respondent's analysis of Comparable Sale Three failed to report that a
13 \$25,000 seller cash credit back to the buyer was included in the sales price reported.

14 iii. Respondent's analysis of Comparable Sale Four failed to disclose that a
15 prior sale of the comparable occurred within one year of the sale reported.

16 iv. Without explanation, Respondent failed to report several alternative sale
17 properties located proximate to the subject property (two of which had more recent
18 sale dates than those comparable sales utilized by Respondent), all of which
19 transferred at lower sale prices than those comparable sale properties selected by
20 Respondent.

21 b. Failure to Analyze the Recent Listing History of the Subject Property and to
22 Reconcile the Most Recent Listing Price with the Opinion of Market Value Developed.

23 Respondent violated S.R. 1-5(a) and 2-2(b)(viii), as follows:

24 (i) Respondent failed to reconcile the \$630,000 opinion of value developed
25 with the recent listing history encompassing a period of approximately 176 days,
26 including a listing for 111 days at a price of \$585,000 that was withdrawn one week
27 prior to the date of Respondent's valuation.
28

1 (ii) Respondent failed to reconcile his opinion of value, which was above
2 the most recent listing price, with his conclusion of market trends, which were
3 reported as "stable".

4 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
5 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
6 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
7 a copy of the contract of sale and why the contract of sale was not available for review.

8 d. Acceptance of an Appraisal Assignment that was Contingent Upon the
9 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
10 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
11 sections of the Ethics Rule as follows:

12 (i) Respondent was sent a fax from his client dated September 29, 2006,
13 indicating that the Price/Estimated Value for the subject property was \$630,000,
14 which was \$45,000 over the most recent listed price of \$585,000, but was not sent a
15 contract of sale supporting the Price/Estimated Value.

16 (ii) Respondent, without benefit of reviewing any terms indicated in the
17 contract of sale, concluded to an opinion of value at the contract price of \$630,000 by
18 utilizing questionable comparable sale properties to which inaccurate analyses were
19 applied, and by disregarding several sales located more proximately to the subject
20 property that represented relevant and credible market data selling at prices lower
21 than his concluded opinion of value.

22 (iii) As a result of the above actions, Respondent compromised his
23 impartiality, objectivity and independence by performing an appraisal assignment
24 that was contingent upon the reporting of a predetermined value, or a direction in
25 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
26 his certifications were false.

1 e. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
2 Develop Credible Assignment Results. Based on the findings noted in a, b, and c above,
3 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

4 f. Failure to Employ Those Recognized Methods and Techniques Necessary to
5 Produce a Credible Appraisal. Based on the findings noted in a, b, and c above,
6 Respondent violated S. R. 1-1(a).

7 g. Failure to Develop and Report an Assignment Without Substantial Errors of
8 Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings
9 noted in a, b, and c above, Respondent violated S. R. 1-1(b).

10 h. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal
11 Assignment Competently. Based on the findings noted in a, b, and c above, Respondent
12 failed to credibly support the value conclusion and violated the Competency Rule.

13 i. Communication of Assignment Results in a Misleading or Fraudulent Manner.
14 Based on the findings noted in a above, Respondent violated S. R. 2-1(a) and the Conduct
15 section of the Ethics Rule.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **Count Two: Appraisal of 1400 Yosemite Circle, Oakley, California**

18 30. On October 20, 2006, Respondent completed a real estate appraisal report of the
19 single family residential property located at 1400 Yosemite Circle, Oakley, California.
20 Improvements consisted of a 2,537 square foot, two story, five bedroom, three and one-half
21 bathroom residence situated on a 5,130 square foot, rectangular shaped, interior lot. The
22 improvements were constructed in 2004 and were in good condition. The intended use of the
23 appraisal report was for lending purposes.

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

27 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
28 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and

1 2-2(b)(viii), in that the report failed to include accurate photographs of Comparable Sale
2 Properties One, Two, and Three, and without explanation, failed to report several relevant
3 and credible sales of properties proximate to the subject property that sold at prices lower
4 than his concluded opinion of value.

5 b. Failure to Analyze the Recent Listing History of the Subject Property and to
6 Reconcile the Listed Price with the Opinion of Market Value Developed. Respondent
7 violated S.R. 1-5(a) and 2-2(b)(viii), in that Respondent failed to reconcile the listing price
8 of \$579,000 with the \$665,000 opinion of value developed, which was \$86,000 higher
9 even though market conditions were reported as stable.

10 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
11 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
12 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
13 a copy of the contract of sale and why the contract of sale was not available for review.

14 d. Failure to Analyze a Prior Sale of the Subject Property. Respondent violated
15 S. R. 1-5(b) and 2-2(b)(viii) in that he failed to analyze an October 29, 2004, sale of the
16 subject property at a reported price of \$387,500, which translated to a 72% increase in
17 value over a two year period based on Respondent's opinion of value at \$665,000 as of the
18 October 17, 2006, effective date.

19 e. Acceptance of an Appraisal Assignment that was Contingent Upon the
20 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
21 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
22 sections of the Ethics Rule as follows:

23 (i) Respondent was sent a fax from his client dated October 13, 2006,
24 indicating that the "Verbal Value" and the contract price for the subject property was
25 \$665,000, which was \$86,000 over the listed price of \$579,000, but was not sent a
26 contract of sale supporting the "Verbal Value" or contract price.

1 (ii) By failing to obtain and analyze the contract of sale, Respondent omitted
2 reporting a \$10,000 credit to the buyer, and an atypically large sale commission of
3 \$86,700 (13% of the contract price) payable to Respondent's client.

4 (iii) Respondent, without benefit of reviewing any terms indicated in the
5 contract of sale, concluded to an opinion of value at the contract price of \$665,000,
6 but failed to report several relevant sales of properties proximate to the subject
7 property that represented credible market data, which sold at prices lower than his
8 concluded opinion of value.

9 (iv) As a result of the above actions, Respondent compromised his
10 impartiality, objectivity and independence by performing an appraisal assignment
11 that was contingent upon the reporting of a predetermined value, or a direction in
12 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
13 his certifications were false.

14 f. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
15 Develop Credible Assignment Results. Based on the findings noted in a, b, c, and d above,
16 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

17 g. Failure to Employ Those Recognized Methods and Techniques Necessary to
18 Produce a Credible Appraisal. Based on the findings noted in a, b, c, and d above,
19 Respondent violated S. R. 1-1(a).

20 h. Failure to Develop and Report an Assignment Without Substantial Errors of
21 Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings
22 noted in a, b, c, and d above, Respondent violated S. R. 1-1(b).

23 i. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal
24 Assignment Competently. Based on the findings noted in a, b, c, and d above, Respondent
25 failed to credibly support the value conclusion and violated the Competency Rule.

26 j. Communication of Assignment Results in a Misleading or Fraudulent Manner.
27 Based on the findings noted in a above, Respondent violated S. R. 2-1(a) and the Conduct
28 section of the Ethics Rule.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **Count Three: Appraisal of 957 Windmeadows Drive, Brentwood, California**

3 32. On November 2, 2006, Respondent completed a real estate appraisal report of the
4 single family residential property located at 957 Windmeadows Drive, Brentwood, California.
5 Improvements consisted of a 1,955 square foot, two story, four bedroom, two and one-half
6 bathroom residence situated on a 5,500 square foot, rectangular shaped, interior lot. The
7 improvements were constructed in 1992 and were in good condition. The intended use of the
8 appraisal report was for lending purposes.

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

12 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
13 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and
14 2-2(b)(viii), in that the report failed to analyze several comparable sale properties
15 adequately, as follows:

16 i. Respondent's analysis of Comparable Sale One failed to discuss and
17 analyze 225 square feet of unpermitted living area utilized by the seller as a home
18 gym/office, and failed to comment on significant improvement upgrades that the
19 listing agent characterized as extravagant.

20 ii. Respondent failed to disclose that Comparable Sale Five backed to the 3rd
21 fairway at the Brentwood Golf Club and had lake views, both of which were features
22 the subject property did not have.

23 iii. Without explanation, Respondent failed to report several relevant,
24 alternative sale properties located proximate to the subject property that sold at prices
25 lower than his concluded opinion of value.

26 b. Failure to Analyze the Recent Listing History of the Subject Property and to
27 Reconcile the Listed Price with the Opinion of Market Value Developed. Respondent
28 violated S.R. 1-5(a) and 2-2(b)(viii), in that Respondent failed to reconcile the listing price

1 of \$514,500 with the \$575,000 opinion of value developed, which was \$60,500 higher
2 even though market conditions were reported as stable.

3 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
4 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
5 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
6 a copy of the contract of sale and why the contract of sale was not available for review.

7 d. Failure to Analyze a Prior Sale of the Subject Property. Respondent violated
8 S. R. 1-5(b) and 2-2(b)(viii) in that he failed to analyze a July 24, 2004, sale of the subject
9 property at a reported price of \$459,000, which translated to a 25% increase in value over a
10 two year period based on Respondent's opinion of value at \$575,000 as of the
11 October 27, 2006, effective date.

12 e. Acceptance of an Appraisal Assignment that was Contingent Upon the
13 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
14 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
15 sections of the Ethics Rule as follows:

16 (i) Respondent was sent a fax from his client dated October 25, 2006,
17 indicating that the "Verbal Value" and "Value Desired" was the contract price for the
18 subject property at \$575,000, which was \$60,500 over the listed price of \$514,500,
19 but was not sent a contract of sale supporting the "Verbal Value"/"Value Desired" or
20 contract price.

21 (ii) By failing to obtain and analyze the contract of sale, Respondent
22 potentially omitted reporting a \$10,000 credit to the buyer, and an atypically large
23 sale commission of \$60,500 (10.5% of the contract price) payable to Respondent's
24 client (the contract reviewed by OREA was dated subsequent to Respondent's
25 effective date of value).

26 (iii) Respondent, without benefit of reviewing any terms indicated in the
27 contract of sale, concluded to an opinion of value at the contract price of \$575,000,
28 but failed to report several relevant sale properties proximate to the subject property

1 that represented credible market data, which sold at prices lower than his concluded
2 opinion of value.

3 (iv) As a result of the above actions, Respondent compromised his
4 impartiality, objectivity and independence by performing an appraisal assignment
5 that was contingent upon the reporting of a predetermined value, or a direction in
6 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
7 his certifications were false.

8 f. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
9 Develop Credible Assignment Results. Based on the findings noted in a, b, c, and d above,
10 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

11 g. Failure to Employ Those Recognized Methods and Techniques Necessary to
12 Produce a Credible Appraisal. Based on the findings noted in a, b, c, and d above,
13 Respondent violated S. R. 1-1(a).

14 h. Failure to Develop and Report an Assignment Without Substantial Errors of
15 Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings
16 noted in a, b, c, and d above, Respondent violated S. R. 1-1(b).

17 i. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal
18 Assignment Competently. Based on the findings noted in a, b, c, and d above, Respondent
19 failed to credibly support the value conclusion and violated the Competency Rule.

20 j. Communication of Assignment Results in a Misleading or Fraudulent Manner.
21 Based on the findings noted in a and b above, Respondent violated S. R. 2-1(a) and the
22 Conduct section of the Ethics Rule.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **Count Four: Appraisal of 520 South Second Street, Rio Vista, California**

25 34. On October 11, 2006, Respondent completed a real estate appraisal report of the
26 single family residential property located at 520 South Second Street, Rio Vista, California.
27 Improvements consisted of a 3,626 square foot, two story, four bedroom, two and one-half
28 bathroom residence situated on a 7,405 square foot, rectangular shaped lot. The improvements

1 were constructed in 1914 with a reported effective age of 46 years, and were in good condition.
2 The intended use of the appraisal report was for lending purposes.

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

6 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
7 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and
8 2-2(b)(viii), in that the report failed to analyze several comparable sale properties
9 adequately, as follows:

10 i. Respondent failed to report any basis or support for the lack of
11 adjustment to Comparable Sales Two, Four, Five, and Six, considering the newer age
12 of the comparable sale improvements compared to the subject property
13 improvements, which were much older chronologically.

14 ii. Respondent failed to disclose that Comparable Sale Five backed to the
15 Sacramento River, or to provide the rationale for not adjusting this comparable sale
16 for this feature, which the subject property lacked.

17 iii. Without explanation, Respondent failed to report two alternative, relevant
18 sale properties located proximate to the subject property that sold at prices lower than
19 his concluded opinion of value.

20 b. Failure to Analyze the Recent Listing History of the Subject Property and to
21 Reconcile the Listed Price with the Opinion of Market Value Developed. Respondent
22 violated S.R. 1-5(a) and 2-2(b)(viii), in that Respondent failed to reconcile the listing price
23 of \$539,000 with the \$600,000 opinion of value developed, which was \$61,000 higher
24 even though market conditions were reported as stable.

25 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
26 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
27 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
28 a copy of the contract of sale and why the contract of sale was not available for review.

1 d. Failure to Retain a Complete Copy of the Workfile and the Documentation
2 Necessary to Support the Opinions and Conclusions in the Appraisal Report. Respondent
3 violated the Record Keeping section of the Ethics Rule in that he failed to retain the
4 appraisal request form submitted by the client, which referenced the pending sale price of
5 the subject property at \$600,000.

6 e. Acceptance of an Appraisal Assignment that was Contingent Upon the
7 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
8 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
9 sections of the Ethics Rule as follows:

10 (i) Respondent did not provide the appraisal request form or sales contract
11 stating or supporting the reported contract price for the subject property at \$600,000,
12 which was \$61,000 over the listed price of \$539,000.

13 (ii) By failing to obtain and analyze the contract of sale, Respondent omitted
14 reporting a \$10,000 credit to the buyer, and an atypically large sale commission of
15 \$108,625 (16% of the actual contract price of \$675,000 at the time of Respondent's
16 report) payable to Respondent's client.

17 (iii) Respondent, without benefit of reviewing any terms indicated in the
18 contract of sale, concluded to an opinion of value at \$600,000, but failed to report two
19 relevant sale properties proximate to the subject property that sold at prices lower
20 than his concluded opinion of value.

21 (iv) As a result of the above actions, Respondent compromised his
22 impartiality, objectivity and independence by performing an appraisal assignment that
23 was contingent upon the reporting of a predetermined value, or a direction in
24 assignment results that favored the cause of his client, and violated S.R. 2-3 in that his
25 certifications were false.

26 f. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
27 Develop Credible Assignment Results. Based on the findings noted in a, b, and c above,
28 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

1 g. Failure to Employ Those Recognized Methods and Techniques Necessary to
2 Produce a Credible Appraisal. Based on the findings noted in a, b, and c above,
3 Respondent violated S. R. 1-1(a).

4 h. Failure to Develop and Report an Assignment Without Substantial Errors of
5 Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings
6 noted in a, b, and c above, Respondent violated S. R. 1-1(b).

7 i. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal
8 Assignment Competently. Based on the findings noted in a, b, and c above, Respondent
9 failed to credibly support the value conclusion and violated the Competency Rule.

10 j. Communication of Assignment Results in a Misleading or Fraudulent Manner.
11 Based on the findings noted in a above, Respondent violated S. R. 2-1(a) and the Conduct
12 section of the Ethics Rule.

13 **CASE NUMBER C090421-04**

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **Count Five: Appraisal of 1832 La Fonte Drive, Brentwood, California**

16 36. On October 25, 2006, Respondent completed a real estate appraisal report of the
17 single family residential property located at 1832 La Fonte Drive, Brentwood, California. The
18 subject property was in a newer subdivision known as Montelena, which was being developed by
19 Centex Homes. Improvements consisted of a 3,790 square foot, single story, four bedroom, three
20 and one-half bathroom residence situated on a 11,689 square foot, rectangular shaped interior lot.
21 The improvements were constructed in 2005 and were in good condition. The intended use of the
22 appraisal report was for lending purposes.

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

26 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
27 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and
28

1 2-2(b)(viii), in that the report failed to analyze several comparable sale properties
2 adequately, as follows:

3 i. Respondent's analysis of Comparable Sale Two misreported the
4 adjustment for a swimming pool at \$2,000 (the adjustment for a swimming pool at
5 Comparable Sale Five was \$20,000).

6 ii. Without explanation, Respondent failed to report several alternative,
7 relevant sale properties located proximate to the subject property that were
8 constructed by the same builder (Centex Homes) and sold at prices lower than his
9 concluded opinion of value.

10 b. Failure to Analyze the Recent Listing History of the Subject Property and to
11 Reconcile the Most Recent Listing Price with the Opinion of Market Value Developed.

12 Respondent violated S.R. 1-5(a) and 2-2(b)(viii), as follows:

13 i. Respondent failed to reconcile the \$1,090,000 opinion of value
14 developed with the recent listing history encompassing a period of approximately 229
15 days, including a series of price reductions from the original listing price of
16 \$1,250,000 to \$959,000.

17 ii. Respondent failed to reconcile his opinion of value, which was above the
18 most recent listing price, with his conclusion of market trends, which were reported
19 as "stable".

20 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
21 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
22 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
23 a copy of the contract of sale and why the contract of sale was not available for review.

24 d. Failure to Analyze a Prior Sale of the Subject Property. Respondent violated
25 S. R. 1-5(b) and 2-2(b)(viii) in that he failed to analyze an August 31, 2005, sale of the
26 subject property at a reported price of \$893,500, which translated to a 22% increase in
27 value over a fourteen month period based on Respondent's opinion of value at \$1,090,000
28 as of the October 24, 2006, effective date.

1 e. Acceptance of an Appraisal Assignment that was Contingent Upon the
2 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
3 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
4 sections of the Ethics Rule as follows:

5 (i) Respondent was sent a fax from his client dated October 23, 2006,
6 indicating that the contract price for the subject property was \$1,090,000, which was
7 \$131,000 over the listed price of \$959,000, but was not sent a contract of sale
8 supporting the stated contract price.

9 (ii) By failing to obtain and analyze the contract of sale, Respondent omitted
10 reporting a \$20,000 credit to the buyer for closing costs, and an atypically large sale
11 commission of \$150,000 (14% of the contract price) payable to Respondent's client.

12 (iii) Respondent, without benefit of reviewing any terms indicated in the
13 contract of sale, concluded to an opinion of value at the reported contract price of
14 \$1,090,000, but failed to report several relevant sale properties more proximate to the
15 subject property that represented credible market data, which sold at prices lower
16 than his concluded opinion of value.

17 (iv) As a result of the above actions, Respondent compromised his
18 impartiality, objectivity and independence by performing an appraisal assignment
19 that was contingent upon the reporting of a predetermined value, or a direction in
20 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
21 his certifications were false.

22 f. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
23 Develop Credible Assignment Results. Based on the findings noted in a, b, c, and d above,
24 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

25 g. Failure to Employ Those Recognized Methods and Techniques Necessary to
26 Produce a Credible Appraisal. Based on the findings noted in a, b, c, and d above,
27 Respondent violated S. R. 1-1(a).
28

1 h. Failure to Develop and Report an Assignment Without Substantial Errors of
2 Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings
3 noted in a, b, c, and d above, Respondent violated S. R. 1-1(b).

4 i. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal
5 Assignment Competently. Based on the findings noted in a, b, c, and d above, Respondent
6 failed to credibly support the value conclusion and violated the Competency Rule.

7 j. Communication of Assignment Results in a Misleading or Fraudulent Manner.
8 Based on the findings noted in a and b above, Respondent violated S. R. 2-1(a) and the
9 Conduct section of the Ethics Rule.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **Count Six: Appraisal of 2760 Saint Andrews Drive, Brentwood, California**

12 38. On October 20, 2006, Respondent completed a real estate appraisal report of the
13 single family residential property located at 2760 Saint Andrews Drive, Brentwood, California.
14 The subject property was in the KB Home Bridgeview development in proximity to the Deer
15 Ridge Country Club. Improvements consisted of a 2,636 square foot, single story, five bedroom,
16 three bathroom residence situated on a 10,677 square foot, rectangular shaped interior lot. The
17 improvements were constructed in 2005 and were in good condition. The intended use of the
18 appraisal report was for lending purposes.

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

22 a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible
23 Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and
24 2-2(b)(viii), in that the report failed to analyze several comparable sale properties
25 adequately, as follows:

26 i. Respondent failed to disclose that Comparable Sale One backed to a golf
27 course view, and that the seller credited the buyer \$15,000 for closing costs.
28

1 ii. Respondent failed to disclose that Comparable Sale Four had a golf
2 course view.

3 iii. Respondent failed to accurately indicate the location of the subject
4 property on the Comparable Sale Map included in the addendum to the report.

5 iii. Without explanation, Respondent failed to report several alternative,
6 relevant sale properties located more proximate to the subject property that sold at
7 prices lower than his concluded opinion of value.

8 b. Failure to Analyze the Recent Listing History of the Subject Property and to
9 Reconcile the Most Recent Listing Price with the Opinion of Market Value Developed.

10 Respondent violated S.R. 1-5(a) and 2-2(b)(viii), as follows:

11 i. Respondent failed to reconcile the \$785,000 opinion of value developed
12 as of the October 19, 2006, effective date with the recent listing history at a price of
13 \$640,000 beginning September 8, 2006.

14 ii. Respondent failed to reconcile his opinion of value, which was above the
15 most recent listing price, with his conclusion of market trends, which were reported
16 as “stable”.

17 c. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
18 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
19 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
20 a copy of the contract of sale and why the contract of sale was not available for review.

21 d. Failure to Analyze a Prior Sale of the Subject Property. Respondent violated
22 S. R. 1-5(b) and 2-2(b)(viii) in that he failed to analyze a December 14, 2005, sale of the
23 subject property at a reported price of \$718,000, which translated to a 9% increase in value
24 over a ten month period based on Respondent’s opinion of value at \$1,090,000 as of the
25 October 24, 2006, effective date. Respondent also failed to analyze a July 15, 2005, sale of
26 the subject property at a reported price of \$668,000.

27 e. Acceptance of an Appraisal Assignment that was Contingent Upon the
28 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the

1 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
2 sections of the Ethics Rule as follows:

3 (i) Respondent was sent a fax from his client dated October 16, 2006,
4 indicating that the "Verbal Value" was \$800,000 and the contract price for the subject
5 property was \$785,000, which was \$145,000 over the listed price of \$640,000, but
6 was not sent a contract of sale supporting the "Verbal Value" or contract price.

7 (ii) By failing to obtain and analyze the contract of sale, Respondent omitted
8 reporting a \$10,000 credit to the buyer, and an atypically large sale commission of
9 \$120,000 (15% of the contract price) payable to Respondent's client.

10 (iii) Respondent, without benefit of reviewing any terms indicated in the
11 contract of sale, concluded to an opinion of value at the contract price of \$785,000,
12 but failed to report several relevant sale properties located more proximate to the
13 subject property that were constructed by the same home builder as the subject
14 property and represented credible market data, which sold at prices lower than his
15 concluded opinion of value.

16 (iv) As a result of the above actions, Respondent compromised his
17 impartiality, objectivity and independence by performing an appraisal assignment
18 that was contingent upon the reporting of a predetermined value, or a direction in
19 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
20 his certifications were false.

21 f. Failure to Identify and Perform the Appropriate Scope of Work Necessary to
22 Develop Credible Assignment Results. Based on the findings noted in a, b, c, and d above,
23 Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

24 g. Failure to Employ Those Recognized Methods and Techniques Necessary to
25 Produce a Credible Appraisal. Based on the findings noted in a, b, c, and d above,
26 Respondent violated S. R. 1-1(a).
27
28

h. Failure to Develop and Report an Assignment Without Substantial Errors of Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings noted in a, b, c, and d above, Respondent violated S. R. 1-1(b).

i. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal Assignment Competently. Based on the findings noted in a, b, c, and d above, Respondent failed to credibly support the value conclusion and violated the Competency Rule.

j. Communication of Assignment Results in a Misleading or Fraudulent Manner. Based on the findings noted in a, b, and d above, Respondent violated S. R. 2-1(a) and the Conduct section of the Ethics Rule.

SEVENTH CAUSE FOR DISCIPLINE

Count Seven: Appraisal of 5217 Rainwood Way, Antioch, California

40. On December 1, 2006, Respondent completed a real estate appraisal report of the single family residential property located at 5217 Rainwood Way, Antioch, California. The subject property was in the Meadow Creek Crossing subdivision developed by Seeno Homes, also known as West Coast Home Builders, Inc., and Discovery Builders. Improvements consisted of a 2,264 square foot, two story, four bedroom, two and one half bathroom residence situated on a 5,681 square foot, rectangular shaped interior lot. The improvements were constructed in 2005 and were in good condition. The intended use of the appraisal report was for lending purposes.

41. 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:

a. Failure to Collect, Verify, and Analyze all Information Necessary for Credible Assignment Results. Respondent violated USPAP Standards Rule(s) (S. R.) 1-4(a) and 2-2(b)(viii), in that the report failed to analyze several comparable sale properties adequately, as follows:

i. Respondent failed to disclose sale concessions applicable to Comparable Sales One, Two, Three, and Four involving reductions in base prices, waiver of lot premiums, and builder discounts in options/upgrades.

1 ii. Without explanation, Respondent failed to report several alternative,
2 relevant sale properties located proximate to the subject property that sold at prices
3 lower than his concluded opinion of value.

4 b. Failure to Report on the Unavailability of the Contract of Sale and the Efforts
5 Undertaken to Obtain a Copy of the Contract of Sale. Respondent violated
6 S.R. 2-2(b)(viii) in that he failed to provide a statement on the efforts undertaken to obtain
7 a copy of the contract of sale and why the contract of sale was not available for review.

8 c. Acceptance of an Appraisal Assignment that was Contingent Upon the
9 Reporting of a Predetermined Value, or a Direction in Assignment Results that Favors the
10 Cause of the Client. Respondent violated S.R. 2-3, and the Management and Conduct
11 sections of the Ethics Rule as follows:

12 (i) Respondent was sent a fax from his client dated November 22, 2006,
13 indicating that the contract price for the subject property was \$669,000, but was not
14 sent a contract of sale supporting the contract price.

15 (ii) By failing to obtain and analyze the contract of sale, Respondent omitted
16 reporting a \$10,000 credit to the buyer, an atypically large sale commission not to
17 exceed \$64,000 (9.5% of the contract price) payable to Respondent's client, and a
18 seller's design credit not to exceed \$27,000 for options/upgrades..

19 (iii) Respondent, without benefit of reviewing any terms indicated in the
20 contract of sale, concluded to an opinion of value at the contract price of \$669,000,
21 but failed to report several relevant sale properties proximate to the subject property
22 that represented credible market data, which sold at lower prices than his concluded
23 opinion of value.

24 (iv) As a result of the above actions, Respondent compromised his
25 impartiality, objectivity and independence by performing an appraisal assignment
26 that was contingent upon the reporting of a predetermined value, or a direction in
27 assignment results that favored the cause of his client, and violated S.R. 2-3 in that
28 his certifications were false.

d. Failure to Identify and Perform the Appropriate Scope of Work Necessary to Develop Credible Assignment Results. Based on the findings noted in a and b above, Respondent violated S. R. 1-2(h), 2-2(b)(vii) and the Scope of Work Rule.

e. Failure to Employ Those Recognized Methods and Techniques Necessary to Produce a Credible Appraisal. Based on the findings noted in a and b above, Respondent violated S. R. 1-1(a).

f. Failure to Develop and Report an Assignment Without Substantial Errors of Omission and/or Commission Significantly Affecting the Appraisal: Based on the findings noted in a and b above, Respondent violated S. R. 1-1(b).

g. Failure to Take All Steps Necessary or Appropriate to Complete the Appraisal Assignment Competently. Based on the findings noted in a and b above, Respondent failed to credibly support the value conclusion and violated the Competency Rule.

h. Communication of Assignment Results in a Misleading or Fraudulent Manner. Based on the findings noted in a above, Respondent violated S. R. 2-1(a) and the Conduct section of the Ethics Rule.

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 or suspending Certified Residential Appraiser License Number AR032903.
2. Ordering Thomas G. Jenkins 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: March 12, 2012

Original Signed

—
ELIZABETH SEATERS
Acting Chief of Enforcement
Office of Real Estate Appraisers
State of California
Complainant