

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0266
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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9 **BEFORE THE**
10 **BUREAU OF REAL ESTATE APPRAISERS**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. L20190821-01

14 **AMR APPRAISALS, INC., DBA GOT**
15 **APPRAISALS**
4000 Executive Pkwy, #230
San Ramon, CA 94583

ACCUSATION

16 **Appraisal Management Company**
17 **Registration No. 1253**

Respondent.

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20 **PARTIES**

21 1. Aaron Klinger, acting on behalf of the Bureau of Real Estate Appraisers
22 (Complainant), Department of Consumer Affairs, brings this Accusation solely in his official
23 capacity as Chief of Enforcement for Complainant.

24 2. On or about May 12, 2018, the Bureau of Real Estate Appraisers (formerly Office of
25 Real Estate Appraisers) issued Appraisal Management Company (AMC) Registration Number
26 1253 to AMR Appraisals, Inc., dba Got Appraisals (Respondent). The AMC Registration was in
27 full force and effect at all times relevant to the charges brought in this Accusation, and will expire
28 on May 11, 2020, unless renewed. Joe M. Reid is Respondent's Designated Officer.

JURISDICTION

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

5 4. Section 22 of the Code states:

6 ‘Board’ as used in any provisions of this code, refers to the board in which the
7 administration of the provision is vested, and unless otherwise expressly provided, shall
8 include ‘bureau,’ ‘commission,’ ‘committee,’ ‘department,’ ‘division,’ ‘examining
committee,’ ‘program,’ and ‘agency.’

9 5. Code section 11301 states:

10 (a)(1) There is hereby created within the Department of Consumer Affairs a Bureau
11 of Real Estate Appraisers to administer and enforce this part.

12 (2) Notwithstanding any other law, the powers and duties of the bureau, as set forth in
13 this part, shall be subject to review by the appropriate policy committees of the Legislature.
14 The review shall be performed as if this part were scheduled to be repealed as of January 1,
2021.

15 (b) Whenever the term “Office of Real Estate Appraisers” appears in any other law, it
16 means the “Bureau of Real Estate Appraisers.”

17 6. Code section 11302 states, in pertinent part:

18 For the purpose of applying this part, the following terms, unless otherwise expressly
19 indicated, shall mean and have the following definitions:

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21 (d) (1) ‘Appraisal management company’ means any person or entity that satisfies all
22 of the following conditions:

23 (A) Provides appraisal management services to creditors or to secondary mortgage
24 market participants, including affiliates.

25 (B) Provides those services in connection with valuing a consumer’s principal
26 dwelling as security for a consumer credit transaction or incorporating such transactions
27 into securitizations.

28 (C) Within a given 12 calendar month period oversees an appraiser panel of more
than 15 state-certified or state-licensed appraisers in a state or 25 or more state-certified or
state-licensed appraisers in two or more states, as described in Section 11345.5.

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(e) ‘Appraisal management services’ means one or more of the following:

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(1) Recruiting, selecting, and retaining appraisers.

(2) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments.

(3) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed.

(4) Reviewing and verifying the work of appraisers.

....

(i) 'Controlling person' means one or more of the following:

(1) An officer or director of an appraisal management company, or an individual who holds a 10 percent or greater ownership interest in an appraisal management company.

(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

....

(t) 'License' means any license, certificate, permit, registration, or other means issued by the bureau authorizing the person to whom it is issued to act pursuant to this part within this state.

(u) 'Licensure' means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

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(w) 'Registration' means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.

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7. Code section 11313 states:

The bureau is under the supervision and control of the Director of Consumer Affairs. The duty of enforcing and administering this part is vested in the chief, and he or she is responsible to the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the former Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its licensees.

8. Code section 11314 states:

The office is required to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest and comply in all respects with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73 and any subsequent amendments thereto. Requirements for each level of licensure shall, at a minimum, meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation. The office may additionally include in its regulations requirements for the registration of appraisal management companies consistent with this part.

9. Code section 11315.3 states:

The suspension, expiration, or forfeiture by operation of law of a license or certificate of registration issued by the office, or its suspension, forfeiture, or cancellation by order of the office or by order of a court of law, or its surrender without the written consent of the office, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the office of its authority to institute or continue a disciplinary proceeding against the licensee or registrant upon any ground provided by law or to enter an order suspending or revoking the license or certificate of registration, or otherwise taking disciplinary action against the licensee or registrant on any such ground.

10. California Code of Regulations, title 10, section 3724 states:

(a) Where the Chief has verified a notice of acts or omissions by a licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration which constitute a violation of statute, regulation or USPAP, he/she may issue a citation in writing which describes with particularity the nature of the violation and including specific reference to the law, regulation or professional practice standard determined to have been violated. The citation may include a notice of abatement fixing a reasonable period of time for abatement of the violation, assessment of private or public reproval, suspension, revocation, restriction of license, fine or any combination of these actions.

(b) Fines shall not exceed \$10,000 per incident. In assessing a fine, the Chief shall give due consideration to:

- (1) The gravity of the violation;

- 1 (2) The good or bad faith of the person cited;
- 2 (3) The history of previous violations;
- 3 (4) Evidence that the violation was willful;
- 4 (5) The extent to which the cited person has cooperated with the Bureau;
- 5 (6) The extent to which the cited person has mitigated or attempted to mitigate any
- 6 loss or potential loss caused by the violation; and
- 7 (7) Such other matters as the Chief determines are in the interest of justice.

8 (c) Citations issued hereunder shall be subject to review as provided in subsection (b)

9 of Section 3721.

10 **STATUTORY AND REGULATORY PROVISIONS**

11 11. California Code of Regulations, title 10, section 3721 states, in pertinent part:

12 (a) The Chief may issue a citation, order of abatement, assess a fine or private

13 or public reproof, suspend or revoke any license or Certificate of Registration, and/or

14 may deny the issuance or renewal of a license or Certificate of Registration of any

15 person or entity acting in a capacity requiring a license or Certificate of Registration

16 who has:

17 ...

18 (7) Violated any provision of the Real Estate Appraisers' Licensing and

19 Certification Law, Part 3 (commencing with Section 11300) of Division 4 of the

20 Business and Professions Code, or regulations promulgated pursuant thereto; or any

21 provision of the Business and Professions Code applicable to applicants for or holders

22 of licenses or Certificate of Registration.

23 ...

24 12. Code section 11315, states in pertinent part:

25 (a) The director may issue to a licensee, applicant for licensure, person who acts in a

26 capacity that requires a license under this part, course provider, applicant for course

27 provider accreditation, or a person who, or entity that, acts in a capacity that requires course

28 provider accreditation, a citation that may contain an order to pay an administrative fine

assessed by the office if the person or entity is in violation of this part or any regulations

adopted to carry out its purposes.

...

(e) In no event shall an administrative fine assessed by the office by citation or order

exceed ten thousand dollars (\$10,000) per violation. In assessing a fine, the office shall give

due consideration to the appropriateness of the amount of the fine with respect to factors

such as the gravity of the violation, the good faith of the person who committed the

violation, and the history of previous violations.

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13. Code section 11316, subdivision (a) states:

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

14. Code section 11328.1 states:

If the director has a reasonable belief that a registrant, or person or entity acting in a capacity that requires a certificate of registration, has engaged in activities prohibited under this part, he or she may submit a written request to the registrant, person, or entity, requesting copies of written material related to his or her investigation. Any registrant, person, or entity receiving a written request from the director for information related to an investigation of prohibited activities shall submit that information to the director or the office within a reasonable period of time, which shall be specified by the director in his or her written request. Any material submitted shall be kept confidential by the director and the office.

15. Business and Professions Code section 11345.3 states, in pertinent part:

All appraisal management companies shall do all of the following:

...

(e) Engage appraisal panel members with an engagement letter that shall include terms of payment.

...

COST RECOVERY

16. 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.

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1 **FACTUAL ALLEGATIONS**

2 17. In June of 2019, the Bureau received a complaint against Respondent from a licensed
3 real estate appraiser for non-payment of appraisal fees dating back to 2015. The Bureau
4 conducted an audit to determine whether Respondent was complying with the Bureau's laws. On
5 June 28, 2019, Respondent's Designated Officer, Joe Reid, received the Bureau's audit via
6 certified mail. The Bureau's audit specified that Respondent's response was due by July 26,
7 2019. The Bureau received Respondent's late and incomplete response on July 29, 2019. In its
8 response, Mr. Reid admitted that Respondent does not include terms of payment in its
9 engagement letters.

10 18. On July 29, 2019, the Bureau issued a follow up audit to Respondent, requesting
11 answers to the unanswered questions from the previous audit. Respondent's response to the
12 Bureau's follow up audit was due by August 14, 2019. Mr. Reid received the audit on August 7,
13 2019. The Bureau received Respondent's response to the audit on August 22, 2019. In addition
14 to being late, Respondent failed to fully respond to all of the questions posed in the follow-up
15 audit. In its response, Mr. Reid also again admitted that Respondent does not include terms of
16 payment in its engagement letters.

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Failure to Specify Terms of Payment in Engagement Letters)

19 19. Respondent has subjected its AMC Registration to disciplinary action under
20 California Code of Regulations, title 10, section 3721, subdivision (a)(7), in that it violated Code
21 section 11345.3, subdivision (e), by failing to include terms of payment in its engagement letters.
22 The circumstances are set forth in paragraphs 17 and 18, above.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Failure to Timely Respond to Director's Request)

25 20. Respondent has subjected its AMC Registration to disciplinary action under
26 California Code of Regulations, title 10, section 3721, subdivision (a)(7), in that it violated Code
27 section 11328.1 by failing to submit timely and complete responses to the Bureau's audit
28 requests. The circumstances are set forth in paragraphs 17 and 18, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Chief of the Bureau of Real Estate Appraisers issue a decision:

1. Revoking or suspending Appraisal Management Company Registration number 1253, issued to AMR Appraisals, Inc., dba Got Appraisals;
2. Ordering AMR Appraisals, Inc., dba Got Appraisals to pay the Bureau of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;
3. Ordering AMR Appraisals, Inc., dba Got Appraisals to pay the Bureau of Real Estate Appraisers a fine in the amount of \$10,000.00 pursuant to Business and Professions Code section 11316; and
4. Taking such other and further action as deemed necessary and proper.

DATED:

10/10/2019



AARON KLINGER
Chief of Enforcement
Bureau of Real Estate Appraisers
Department of Consumer Affairs
State of California
Complainant

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