

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
4 State Bar No. 223382
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
BUREAU OF REAL ESTATE APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:

Case No. A20150220-02

12 **GOLDEN STATE APPRAISAL**
MANAGEMENT COMPANY LLC,
13 **1436 Glenoaks Blvd., #116**
Glendale, CA 91201

A C C U S A T I O N

14 **Appraisal Management Company**
15 **Registration No. 1264**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about May 28, 2010, the Bureau of Real Estate Appraisers (BREA) formerly
25 Office of Real Estate Appraisers issued Appraisal Management Company Registration Number
26 1264 to Golden State Appraisal Management Company LLC (Respondent). The registration
27 expired on May 27 2012. BREA reissued the registration on June 18, 2012, which subsequently
28

1 expired June 17, 2014. BREA reissued the registration on July 8, 2014, which subsequently
2 expired on June 7, 2016. BREA reissued the registration on July 8, 2016, which will expire on
3 July 7, 2018. The Appraisal Management Company Registration was in full force and effect at
4 all times relevant to the charges brought herein.

5 3. Respondent has two Controlling Persons: Ovanes J. Gyurjian, (AR042579) and Aren
6 Kalustian (AR042670), and was initially registered on May 28, 2010. At that time, Ovanes J.
7 Gyurjian, the Designated Officer, held the AL license (AL042579) and Aren Kalustian, the other
8 Controlling Person held the AL license (AL042670).

9 JURISDICTION

10 4. This Accusation is brought before BREA for the Department of Consumer Affairs,
11 under the authority of the following laws. Business and Professions Code section 11313 states, in
12 pertinent part:

13 “The bureau is under the supervision and control of the Director of Consumer Affairs. The
14 duty of enforcing and administering this part is vested in the chief, and he or she is responsible to
15 the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and regulations
16 as are determined reasonably necessary to carry out the purposes of this part.”

17 All section references are to the Business and Professions Code unless otherwise indicated.

18 STATUTORY PROVISIONS

19 5. **Code section 11316** provides in pertinent part:

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

25 6. **Code section 11328.1** provides in pertinent part:

26 “If the director has a reasonable belief that a registrant, or person or entity acting in a
27 capacity that requires a certificate of registration, has engaged in activities prohibited under this
28

1 part, he or she may submit a written request to the registrant, person, or entity, requesting copies
2 of written material related to his or her investigation. Any registrant, person, or entity receiving a
3 written request from the director for information related to an investigation of prohibited activities
4 shall submit that information to the director or the office within a reasonable period of time,
5 which shall be specified by the director in his or her written request.”

6 7. Code section 11345.4 provides in pertinent part:

7 “No person or entity acting in the capacity of an appraisal management company shall
8 improperly influence or attempt to improperly influence the development, reporting, result, or
9 review of any appraisal through coercion, extortion, inducement, collusion, bribery, intimidation,
10 compensation, or instruction. Prohibited acts include, but are not limited to, the following:

11 (a) Seeking to influence an appraiser to report a minimum or maximum value for the
12 property being valued. Such influence may include, but is not limited to, the following:

13 (1) Requesting that an appraiser provide a preliminary estimate or opinion of
14 value for one or more properties prior to entering into a contract with that appraiser for appraisal
15 services related to that property or properties.

16 (2) Conditioning whether to hire an appraiser based on an expectation of the
17 value conclusion likely to be returned by that appraiser.

18 (3) Conditioning the amount of an appraiser’s compensation on the value
19 conclusion returned by that appraiser.

20 (4) Providing an appraiser with an anticipated, estimated, encouraged, or
21 desired valuation prior to their completion of an appraisal.

22 (b) Withholding or threatening to withhold timely payment to an appraiser because
23 the person does not return a value at or above a certain amount.

24 (c) Implying to an appraiser that current or future retention of that appraiser depends
25 on the amount at which the appraiser estimates the value of real property.

26 (d) Excluding an appraiser who prepares an appraisal from consideration for future
27 engagement because the appraiser reports a value that does not meet or exceed a predetermined
28 threshold.

1 (e) Conditioning the compensation paid to an appraiser on consummation of the real
2 estate transaction for which the appraisal is prepared.

3 (f) Requesting the payment of compensation from an appraiser for purposes of
4 enabling that appraiser to achieve higher priority in the assignment of appraisal business.”

5 8. **Code section 11409** provides in pertinent part:

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

13 **REGULATORY PROVISIONS**

14 9. **Title 10, California Code of Regulations (CCR) section 3577** provides in pertinent
15 part:

16 “All Appraisal Management Companies must ensure that they adhere to the following
17 business practices when performing appraisal management services for properties located within
18 the State of California:

19 ...

20 (b) Appraisal Management Companies must adopt reasonable procedures designed to
21 ensure that all appraisal assignments completed by its independent contractor or employee
22 appraisers are performed in accordance with the Uniform Standards of Professional Appraisal
23 Practice.

24 10. **Title 10, California Code of Regulations (CCR) section 3721** provides in pertinent
25 part:

26 (a) The Chief may issue a citation, order of abatement, assess a fine or private or public
27 reproof, suspend or revoke any license or Certificate of Registration, and/or may deny the
28

1 issuance or renewal of a license or Certificate of Registration of any person or entity acting in a
2 capacity requiring a license or Certificate of Registration who has:

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

7 **FANNIE MAE (FNMA) GUIDELINE**

8 11. FNMA Selling Guidelines require that lenders ensure that appraisals conform to the
9 Appraiser Independence Requirements:

10 “No employee, director, officer, or agent of the Seller, or any other third party acting as
11 joint venture partner, independent contractor, appraisal company, appraisal management
12 company, or partner on behalf of the Seller, shall influence or attempt to influence the
13 development, reporting, result, or review of an appraisal through coercion, extortion collusion,
14 compensation, inducement, intimidation, bribery, or in any other manner including but not limited
15 to:

16 . . . (6) Providing to an appraiser an anticipated, estimated, encouraged, or desired value
17 for a subject property or a proposed or target amount to be loaned to the Borrower, except that a
18 copy of the sales contract for purchase transactions may be provided.”

19 **STATEMENT OF FACTS**

20 12. On or about January 28, 2015, JM accepted an appraisal assignment from the
21 Respondent, which she completed and submitted to Respondent on February 5, 2015. The
22 appraisal report was submitted to the government-sponsored enterprises for Submission Summary
23 Reports (SSR). Respondent received a request to have the value reconsidered from an agent.
24 The client, HomeBridge Financial, represented approximately half of Respondent’s business
25 according to Aren Kalustian.

26 13. On or about February 6, 2015, Respondent communicated to JM, asking for
27 reconsideration of the value conclusion. On or about February 8, 2015, JM was notified her
28

1 appraisal report contained an incorrect address for the subject property, and then a second request
2 for reconsideration of the value conclusion was communicated to her.

3 14. On or about February 9, 2015, JM resubmitted an appraisal report to the Respondent,
4 correcting the address, but retaining the same value conclusion.

5 15. Aren Kalustian consulted with MF regarding the matter and it was decided that MF
6 would complete a review appraisal of JM's appraisal for Respondent. On or about February 11,
7 2015, JM received a review appraisal report completed by MF.

8 16. On or about February 12, 2015, MF communicated to JM a series of insults in emails,
9 followed by a threat.

10 17. On or about February 18, 2015, JM filed a complaint with BREa alleging coercion.

11 **False Certification in the Original Appraiser's Appraisal**

12 18. Respondent's workfile contains one page of notes stating that an agent (no name
13 included) called stating that the tenant (in the subject property) stated that a man inspected the
14 subject property, and that no woman was there. The unidentified caller requested a
15 reconsideration (of value). Investigator Schmidt questioned each of Respondent's controlling
16 persons on this matter, and neither one knew whether JM inspected the subject property nor
17 would they provide the name of the caller or tenant.

18 19. JM signed a certification included in her appraisal report stating that she inspected the
19 subject property. The allegation from the unidentified caller involves a serious matter, because if
20 it is true, JM's appraisal cannot be used, nor can it be rectified as the signor has been determined
21 to be dishonest.

22 20. During a telephone interview on September 2, 2015, MF stated to Investigator
23 Schmidt that he spoke with a broker who told him that JM did not inspect the property that she
24 appraised. Investigator Schmidt asked MF for the name and telephone number of the broker. MF
25 stated he did not have the information in front of him. Investigator Schmidt emphasized that the
26 information was important as the appraisal reviewed includes a signed certification stating that
27 the signing appraiser did inspect the subject property. A false certification renders the appraisal
28

1 report invalid and it cannot be corrected as the signing appraiser cannot be trusted due to the
2 breach in ethics.

3 21. Aren Kalustian wrote in a letter addressed to BREa that MF is a staff member. MF
4 wrote a similar letter. MF wrote in a letter to BREa that he determined JM did not inspect the
5 subject property. After Investigator Schmidt emphasized the importance of the certification
6 statement with Respondent's controlling persons in their interviews, MF was interviewed for a
7 second time, during which he stated that he had not determined whether JM had in fact inspected
8 the subject property. This statement contradicted MF's earlier statement, and his letter to BREa.

9 **Government Sponsored Enterprise Reports – Submission Summary Reports**

10 22. The Fannie Mae (FNMA) and the Federal Home Loan Mortgage Corporation
11 (FHLMC) are government- sponsored enterprises who purchase loans on the secondary market.
12 The government sponsored-enterprises (GSE's) operate the Uniform Collateral Data Portal
13 (UCDP). Lenders submit appraisals to UCDP, which returns to them messages on Submission
14 Summary Reports (SSR) regarding the appraisal submitted. The SSR from FNMA includes a
15 rating, indicating the risk in the collateral side of the loan. The first appraisal report completed by
16 JM included the wrong unit number of the condominium appraised. Accordingly, the SSR had
17 erroneous messages on them, which Respondent failed to detect.

18 23. Respondent obtained another appraisal from JM with a corrected address. But SSR's
19 with the correct address were not found in Respondent's workfile. FNMA instructions require
20 lenders and their agents not to assume that the SSR's are correct and to use human intervention to
21 ascertain their accuracy. Respondent ordered a review appraisal from MF, which purports to
22 address problems with JM's appraisal report causing the alleged bad rating from FNMA. Copies
23 of the SSRs were included in Schmidt investigative report. Each SSR contains less than one and
24 a half pages. The second page of each report contains the proprietary edit findings from each of
25 the GSE's. The difference in the findings stands out as FNMA has four findings but FHLMC
26 has only one finding, which was not included in the four from FNMA. This discovery led
27 Investigator Schmidt to check the front pages of each report to see if they were on the same
28 property. They were, but it was not the property JM appraised. Accordingly, the rating from

1 FNMA and messages from both GSEs should have met with human intervention. Neither of the
2 officers from GSAMC nor MF were familiar with the SSR's contents. MF wrote numerous
3 comments in emails deriding JM for the poor score he blamed on her.

4 24. Respondent communicated to JM that the owner's opinion of value was \$800,000
5 plus. Respondent further stated the comparables well support \$800,000. This communication
6 violates the Appraiser Independence Requirements of FNMA.

7 25. A second communication was sent to JM which included comparables and
8 adjustments to those comparables supporting the owner's value which was once again shown as
9 \$800,000. This communicates a direction in value. JM concluded the value of the subject
10 property at \$780,000. The requested increase is relatively small, but it was denied.

11 **MF's Appraisal Review of JM's Appraisal**

12 26. MF indicated that the intended use of his appraisal review was quality control
13 regarding elements in the appraisal that he reviewed which caused a high risk score from FNMA.
14 Accordingly, MF needs to know what the messages are in the SSR from FNMA that are
15 considered in that rating. MF did not have that information in his workfile, did not have it in his
16 appraisal review, and provided no explanation during the interview.

17 27. MF's review does not address any of the findings in FNMA's SSR. GSAMC was
18 grossly negligent in determining whether it met its stated purpose. Kalustian wrote a letter with a
19 false statement to BREB regarding the matter as he stated that MF's review was well suited for its
20 stated intended use.

21 28. MF stated in his review that the original appraiser should not refer to the subject
22 property as a single-family residence. During an interview, he stated that the "live-work"
23 nomenclature indicated potential non-residential use, but he had not established that it actually
24 could be used for anything other than residential use. The description of the subject property in
25 the original appraiser's report includes a sketch diagram that shows only residential use.

26 29. MF stated in his review that statistical information shows that the market was
27 changing at the time the appraisal being reviewed was prepared and that JM needed to consider
28 that in her analysis of comparable sales by making time adjustments. The original appraiser, who

1 has geographic competency, provided an article to Investigator Schmidt explaining that the
2 market for houses was increasing, however, the market for condominiums showed a small drop in
3 prices. Accordingly, she was not willing to adjust the comparables upward when her evidence
4 indicated a lull in the market.

5 30. MF stated in his review that bathroom adjustments need to be proven to him. Making
6 bathroom adjustments has been standard practice throughout the industry for decades. He
7 explained that small differences in living area need to be adjusted for, and he adjusted for only
8 four square feet in difference between two such properties. This is inappropriate methodology as
9 it is inconsistent with standards of measurement and appraisal practice.

10 31. MF stated that the balcony adjustment was incorrect and that he called a real estate
11 broker to determine the adjustment. This is an inappropriate way to resolve this matter as only
12 JM is known to have seen the balcony.

13 32. MF included a number of sales in his review and partially analyzed them into value
14 indications. The sales were only partially described and the analysis is incomplete. Missing from
15 the descriptions are: data source, verification source, list price, days on market, condition of the
16 sale property, quality of the sale property, description of amenities, and the terms of sale. MF's
17 description and analysis of the sales are not compliant with the Uniform Standards of Professional
18 Appraisal Practice, which Respondent is responsible for ensuring.

19 33. Aren Kalustian, on behalf of Respondent, stated that he was not aware of the
20 requirement that the review appraisal had to comply with the Uniform Standards of Professional
21 Appraisal Practice (USPAP) and that he did not even read it.

22 **Additional Communication Made to JM Via Emails**

23 34. MF stated in an email: "At a bare minimum I would want my updated final version to
24 be the official record on file at GSAMC rather than the deficient report identified. At a minimum
25 the CLIENT REQUIREMENT required YOU to personally inspect on an interior and exterior
26 basis. The occupant of the property reported to GSAMC that only a male appraiser inspected the
27 property inside. THAT part is too late to correct, but you COULD restate levels of inspection by
28 each party so that there is clarity without the appearance of deliberate deception." This statement

1 calls for the report to be corrected, despite the fact that it violated what the client required, what
2 the GSEs require, and the fact that it allegedly contained a false statement on the matter. Such an
3 appraisal report is not useable and is not correctible, if in fact, the allegation is true.

4 **Intimidation**

5 35. MF stated to JM: "Sophistry and parsing does not explain the apparent contradiction
6 within the appraisal itself." "It is clear that sound real estate appraisal practices and USPAP may
7 also confuse you." "This is purely an ongoing example of exceptionally bad judgment on your
8 part." "I will offer one final caution about further sophistry and or attacks on credibility of the
9 messenger of the unsatisfactory CU score. You have an egregiously deficient appraisal report (in
10 my opinion) sitting out there. Since you do not appear to have either the open mind to over ride
11 your ego, or the mental agility to pick up on the negative issues found within the report, let me
12 help you." MF's statements in his emails are intimidation.

13 **Inducement**

14 36. MF stated to JM: "Had I performed a field review with similar results, I can assure
15 you a copy of it would already be in the mail to BREa." MF's statement in his emails constitute
16 inducement.

17 **Coercion**

18 37. MF stated to JM: "If I were in your shoes, I would either be figuratively falling on my
19 sword right now trying to correct my report of every single deficiency noted, and addressing
20 those areas that you disagree factually and demonstratively rather that argumentatively. That's
21 just in case it is sent to BREa by any of the parties involved in handling it to this point. NOT
22 because you agree with me, but because you KNOW you have left your license in extreme
23 jeopardy." MF's last statement reveals the true nature of Respondent's intentions, despite all of
24 the denials. The pressure was increased to the point of a threat in an effort to get the original
25 appraiser to adopt a value conclusion that JM would not support, breaching the mandate of
26 appraiser independence.

27 **Letter to BREa**

28

1 38. Aren Kalustian signed a letter addressed to the BREa, which stated that MF is a
2 quality control specialist and part time member of his staff. "His work and desk review were
3 completely within the agreed upon scope of work and was well suited for it's intended use and
4 intended user(s). It met all of our needs and requirements."

5 39. During the interview of Respondent's Controlling Persons, they had not read MF's
6 appraisal review, contradicting the letter. Respondent did not ascertain that MF's review did not
7 deal with the messages from the SSR in Respondent's workfile.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Improper Influence)**

10 40. Respondent is subject to disciplinary action under California Code of Regulations, title
11 10, section 3721(a)(7) for violating Code section 11345.4. Specifically, Respondent attempted to
12 influence the development, reporting, and result of an appraisal report through coercion,
13 inducement, and intimidation via a series of communications. Respondent sent JM two separate
14 communications encouraging a higher appraised valuation of \$800,000 as well as stating
15 additional comparables well support such a valuation. Further Respondent made many additional
16 comments to intimidate, induce, and coerce JM to change her appraisal report. Such actions fail to
17 respect the appraiser independence requirement and are improper influence.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Failure to Adopt Reasonable Procedures)**

20 41. Respondent is subject to disciplinary action under California Code of Regulations,
21 title 10, section 3721(a)(7) for violating California Code of Regulations, title 10, section 3577(b).
22 Specifically, Respondent failed to adopt reasonable procedures designed to ensure that all
23 appraisal assignments completed by its independent contractor and employee appraisers are
24 performed in accordance with USPAP. Respondent failed to adopt reasonable procedures to:
25 determine the correct SSRs are received before ordering a review appraisal analyzing any aspect
26 of the SSR; recognize the foundational importance of whether the appraisers had signed a false
27 certification; recognize that it is responsible for USPAP compliance on all appraisal reports that
28 they order including review appraisals; and prevent conduct that constitutes improper influence.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 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 1264, issued to Golden State Appraisal Management Company LLC;
2. Ordering Respondent to pay BREa the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;
3. Ordering Respondent to pay BREa 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: 12/20/16

Original Signed

ELIZABETH SEATERS
Chief of Enforcement
Bureau of Real Estate Appraisers
Department of Consumer Affairs
State of California
Complainant

LA2016602161
12490331