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

12 In the Matter of the Accusation Against:

Case No. L20190314-01

13 **COESTERVMS.COM INC.**
14 **555 Quince Orchard Road, Suite 650**
Gaithersburg, MD 20878

ACCUSATION

15 **Appraisal Management Company**
16 **Registration No. 1445**

17 Respondent.

18 Complainant alleges:
19

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 December 22, 2010, the Bureau of Real Estate Appraisers (formerly
25 Office of Real Estate Appraisers) issued Appraisal Management Company Registration Number
26 1445 to CoesterVMS.com Inc. ("Respondent"). The Appraisal Management Company
27 Registration was in full force and effect at all times relevant to the charges brought herein and
28 will expire on December 22, 2020, unless renewed.

JURISDICTION AND STATUTORY PROVISIONS

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

4.o Business and Professions Code section 11313 states:o

"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."

5.o Business and Professions Code section 11315.3 states:o

"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."

6.o Business and Professions Code section 11315(e) states:o

"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."

1 Business and Professions Code section 11301 states:

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

4 (b) Whenever the term "Office of Real Estate Appraisers" appears in any other law, it
5 means the "Bureau of Real Estate Appraisers."

6 8. Business and Professions Code section 11316, subdivision (a) states:

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

12 9. Business and Professions Code section 11314 states, in pertinent part: "The office is
13 required to include in its regulations requirements for licensure and discipline of real estate
14 appraisers that ensure protection of the public interest."

15 10. California Code of Regulations, title 10, section 3721 states:

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

20 "(1) Been convicted of a felony or any crime which is substantially related to the
21 qualifications, functions, or duties of the profession of real estate appraisal;

22 "(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or
23 another, or to injure another;

24 "(3) Been convicted for a commission or solicitation of a criminal act which involved or
25 threatened bodily harm to others;

26 "(4) Done any act which if done by the holder of a license to practice real estate appraisal
27 would be grounds for revocation or suspension of such license;

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1 “(5) Knowingly made a false statement of material fact required to be disclosed in an
2 application for a license authorizing the practice of real estate appraisal;

3 “(6) Violated any provision of USPAP;

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

8 “(8) Been prohibited from participating in the affairs of an insured depository institution
9 pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. Section 1829.); or

10 “(9) Submitted a financial instrument to BREA for the payment of any fee, fine or penalty
11 which instrument is subsequently dishonored by the issuing institution due to an act or omission
12 of that person.

13 “(b) Before issuing any private or public reproof or denying, suspending, or revoking any
14 license or Certificate of Registration issued or issuable under the provisions of the Real Estate
15 Appraisers Licensing and Certification Law or these regulations, the Bureau shall proceed as
16 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
17 the Government Code (the Administrative Procedure Act) and the Bureau shall have all the
18 powers granted therein.

19 “(c) Any person issued a citation containing a fine or order of abatement may contest the
20 citation by filing a written notice with the Bureau within 30 calendar days that states with
21 specificity the basis of the appeal. Upon receipt of such notice, the Bureau shall proceed as
22 prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
23 the Government Code (the Administrative Procedure Act) and the Bureau shall have all the
24 powers granted therein.”

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

26 “(a) Where the Chief has verified a notice of acts or omissions by a licensed appraiser,
27 Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration
28 which constitute a violation of statute, regulation or USPAP, he/she may issue a citation in

1 which describes with particularity the nature of the violation and including specific
2 reference to the law, regulation or professional practice standard determined to have been
3 violated. The citation may include a notice of abatement fixing a reasonable period of time fore
4 abatement of the violation, assessment of private or public reproval, suspension, revocation,
5 restriction of license, fine or any combination of these actions.

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

8 "(1) The gravity of the violation;

9 "(2) The good or bad faith of the person cited;

10 "(3) The history of previous violations;

11 "(4) Evidence that the violation was willful;

12 "(5) The extent to which the cited person has cooperated with the Bureau;

13 "(6) The extent to which the cited person has mitigated or attempted to mitigate any loss or
14 potential loss caused by the violation; and

15 "(7) Such other matters as the Chief determines are in the interest of justice.

16 "(c) Citations issued hereunder shall be subject to review as provided in subsection (b) of
17 Section 3721."

18 12. California Code of Regulations section 3725 states:

19 "Where the Chief determines that a person is acting in the capacity of a licensee under the
20 jurisdiction of the Bureau in violation of Section 11320 of the Business and Professions Code,
21 and said person commits acts or omissions which constitute a violation of statute or these
22 regulations, the Chief may issue a citation to that person in accordance with Section 3724. Any
23 sanction authorized under this section shall be separate from and in addition to any other civil or
24 criminal remedies."

25 13.e Business and Professions Code section 11328.1 states, 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 part, he or she may submit a written request to the registrant, person, or entity, requesting copies

1d of written material related to his or her investigation. Any registrant, person, or entity deceiving
2 a written request from the director for information related to an investigation of prohibited
3 activities shall submit that information to the director or the office within a reasonable period of
4 time, which shall be specified by the director in his or her written request. Any material
5 submitted shall be kept confidential by the director and the office."

6 14. Business and Professions Code section 11345.3 states:d

7 "All appraisal management companies shall do all of the following:

8 (a) Ensure that all contracted appraisal panel members possess all required licenses and
9 certificates from the office.

10 (b) Establish and comply with processes and controls reasonably designed to ensure that
11 the appraisal management company, in engaging an appraiser, selects an appraiser who is
12 independent of the transaction and who has the requisite license, education, expertise, and
13 experience necessary to competently complete the appraisal assignment for the particular market
14 and property type.d

15 (c) Direct the appraiser to perform the assignment in accordance with the Uniform
16d Standards of Professional Appraisal Practice.

17d (d) Establish and comply with processes and controls reasonably designed to ensure that
18d the appraisal management company conducts its appraisal management services in accordance
19d with the requirements of Section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C.
20d 1639e(a) through (i) , and regulations thereunder.

21d (e) Engage appraisal panel members with an engagement letter that shall include terms of
22d payment.
23

24d (f) Appraisal management companies shall maintain all of the following records for each
25d service request:

26d (1) Date of receipt of the request.

27d (2) Name of the person from whom the request was received.d
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1 (3) Name of the client for whom the request was made, if different from the name of the
2 person from whom the request was received.

3 (4) The appraiser or appraisers assigned to perform the requested service.

4 (5) Date of delivery of the appraisal product to the client.

5 (6) Client contract.

6 (7) Engagement letter.

7 (8) The appraisal report.”

8 COST RECOVERY PROVISION

9 15. Business and Professions Code section 11409, subdivision (a) states:

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

17 FACTS

18 16. Respondent is an appraisal management company (“AMC”). The primary function of
19 an AMC is to contract for appraisal services, typically from appraiser licensees. This function is
20 done on behalf of a third-party, which is typically a housing lender.

21 17. On or about August 9, 2018, the Bureau received a complaint for non-payment of two
22 (2) appraisal assignments from appraiser licensee M.H. The engagement letters for these
23 assignments with M.H. did not include terms of payment.

24 18. On or about October 18, 2018, the Bureau received a complaint for non-payment of
25 two (2) appraisal assignments from appraiser licensee J.S. The engagement letters for these
26 assignments with J.S. did not include terms of payment. On or about November 7, 2018, the
27 Bureau mailed Respondent a letter notifying Respondent that they would be investigating
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1 potential violations of the law and requested information pursuant to section 11328.1 of the Code.

2 As of the date of this filing, the Bureau has received no response from Respondent.

3 19.e On or about December 19, 2018, the Bureau again mailed Respondent a letter
4 notifying Respondent that they would be investigating potential violations of the law and
5 requested information pursuant to section 11328.1 of the Code. As of the date of this filing, the
6 Bureau has received no response from Respondent.

7 20. On or about November 6, 2018, the Bureau received a complaint for non-payment of three
8 (3) appraisal assignments from appraiser licensee G.D. On or about November 30, 2018,

9 the Bureau mailed Respondent a letter notifying Respondent that they would be investigating
10 potential violations of the law and requesting information pursuant to section 11328.1 of the
11 Code. As of the date of this filing, the Bureau has received no response from Respondent.

12 **FIRST CAUSE FOR DISCIPLINE**

13e **(Failure to Include Terms of Payment in Engagement Letters)**

14e 21.e Respondent is subject to disciplinary action under section California Code of
15 Regulations, title 10, section 3721, subdivision (a)(7), in that Respondent violated section
16 11345.3(e) of the Code by failing to engage appraisal panel members with an engagement letter
17 that included terms of payment.

18 22.e Complainant incorporates the allegations of paragraphs 15 through 19 as set forth
19 herein.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Submit Information Related to an Investigation)**

22 23.e Respondent is subject to disciplinary action under California Code of Regulations,
23 title 10, section 3721, subdivision (a)(7), in that Respondent violated section 11328.1 of the Code
24 by failing to submit information related to a Bureau investigation of prohibited activities after
25 request. The circumstances are as follows:

26 24. Complainant incorporates the allegations of paragraphs 15 through 19 as set forth
27 herein.

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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 Numbern 1445, issued to CoesterVMS.com Inc.

2. Ordering CoesterVMS.com Inc. 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 CoesterVMS.com Inc. to pay the Bureau of Real Estate Appraisers a fine inn 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: 4/25/2019

ORIGINAL SIGNED

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

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