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

In the Matter of the Accusation Against:

Case No. L20191002-01

**PHENOMENAL APPRAISAL
MANAGEMENT COMPANY**

DEFAULT DECISION AND ORDER

24480 Riverview Lane
Novi, MI 48374

[Gov. Code, §11520]

**Appraisal Management Company
Registration No. 3005186**

Respondent.

FINDINGS OF FACT

1. On or about November 12, 2019, Aaron Klinger, in his official capacity as the Chief of Enforcement of the Bureau of Real Estate Appraisers (Complainant), filed Accusation No. L20191002-01 against Phenomenal Appraisal Management Company (Respondent) before the Bureau of Real Estate Appraisers. (Accusation attached as Exhibit A.)

2. On or about April 2, 2018, the Bureau of Real Estate Appraisers (formerly the Office of Real Estate Appraisers, referred to herein as the "Bureau") issued Appraisal Management Company (AMC) Registration Number 3005186 to Respondent. The Appraisal Management Company Registration was in full force and effect at all times relevant to the charges brought in

1 Accusation No. L20191002-01, and will expire on April 1, 2020, unless renewed. Laurence G.
2 Herbert is Respondent's Designated Officer under California Code of Regulations, title 10,
3 section 3500, subdivision (b)(11).

4 3. On or about December 26, 2019, Respondent, through its Designated Officer, was
5 served by Certified and First Class Mail, copies of the Accusation No. L20191002-01, Statement
6 to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
7 Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant
8 to Title 10, California Code of Regulations, section 3527, is required to be reported and
9 maintained with the Bureau. Respondent's address of record was and is:

10 24480 Riverview Lane
11 Novi, MI 48374.

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505(c) and/or Business and Professions Code section 124.

14 5. Government Code section 11506(c) states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense . . . and the notice shall be deemed a specific denial of all
17 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
18 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
19 discretion may nevertheless grant a hearing.

20 6. The Bureau takes official notice of its records and the fact that Respondent failed to
21 file a Notice of Defense within 15 days after service upon Respondent of the Accusation, and
22 therefore waived Respondent's right to a hearing on the merits of Accusation No. L20191002-01.

23 7. California Government Code section 11520(a) states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense . . . or to appear at
25 the hearing, the agency may take action based upon the respondent's express
26 admissions or upon other evidence and affidavits may be used as evidence without
27 any notice to respondent

28 8. Pursuant to its authority under Government Code section 11520, the Bureau finds
Respondent is in default. The Bureau will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
as well as taking official notice of all the investigatory reports, exhibits and statements contained

1 therein on file at the Bureau's offices regarding the allegations contained in Accusation No.
2 L20191002-01, finds that the charges and allegations in Accusation No. L20191002-01, are
3 separately and severally, found to be true and correct by clear and convincing evidence.

4 9. The Bureau finds that the actual costs for Investigation and Enforcement are
5 \$2,027.50 as of January 22, 2020.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Phenomenal Appraisal
8 Management Company has subjected its Appraisal Management Company Registration Number
9 3005186 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Bureau of Real Estate Appraisers is authorized to revoke Respondent's Appraisal
12 Management Company based upon the following violations alleged in the Accusation, which are
13 supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this
14 case:

15 a. Failure to Respond to Inquiry from the Bureau. Hanwei Liang is a Controlling
16 Person of Respondent under Code section 11302, subdivision (i). Respondent violated Code
17 section 11345.05, subdivision (a) by failing to notify the Bureau of the address change for Mr.
18 Liang. Respondent further violated Code section 11345.05, subdivision (b) by failing to provide
19 the correct information for Mr. Liang when contacted by the Bureau.

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1 **ORDER**

2 IT IS SO ORDERED that Appraisal Management Company Registration Number 3005186,
3 issued to Respondent Phenomenal Appraisal Management Company, is revoked.

4 **Cost Recovery.** After reviewing its files and records, the Bureau finds that the reasonable
5 cost of investigation and enforcement of Accusation No. L20191002-01 is \$2,027.50. Pursuant to
6 Business and Professions Code section 11409, subdivision (a), the Bureau orders that Respondent
7 pay the full investigation and enforcements costs to the Bureau. However, the Bureau will forgo
8 its right to recover these costs at this time. Should Respondent apply in the future for any license
9 issued by the Bureau, said costs of investigation and enforcement will become due and payable
10 before any new or reinstated license will be issued to Respondent.

11 **Administrative Fine.** Pursuant to Business and Professions Code section 11316,
12 Respondent Phenomenal Appraisal Management Company is ordered to pay the Bureau of Real
13 Estate Appraisers an administrative fine in the amount of \$10,000.00. If the fine is not paid, the
14 full amount of the assessed fine shall be added to any fee for reinstatement of a license.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
16 written motion requesting that the Decision be vacated and stating the grounds relied on within
17 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
18 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

19 This Decision shall become effective on 2-8-20.

20 It is so ORDERED 1-24-20

21
22 **ORIGINAL SIGNED**

23 CHIEF OF THE BUREAU OF REAL ESTATE
24 APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS

25 Attachment:
26 Exhibit A: Accusation
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Exhibit A

Accusation

(PHENOMENAL APPRAISAL MANAGEMENT COMPANY)

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 BRENT O. JEX
Deputy Attorney General
4 State Bar No. 235261
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7864
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8
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. L20191002-01

14 **PHENOMENAL APPRAISAL**
15 **MANAGEMENT COMPANY;**
24480 Riverview Lane
Novi, MI 48374

ACCUSATION

16 **Appraisal Management Company**
17 **Registration No. 3005186**

Respondent.

18
19 **PARTIES**

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

23 2. On or about April 2, 2018, the Bureau of Real Estate Appraisers (formerly Office of
24 Real Estate Appraisers, referred to herein as the "Bureau") issued Appraisal Management
25 Company (AMC) Registration Number 3005186 to Phenomenal Appraisal Management
26 Company (Respondent). The Appraisal Management Company Registration was in full force and
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1 effect at all times relevant to the charges brought herein, and will expire on April 1, 2020, unless
2 renewed.

3 **JURISDICTION**

4 3. Complainant brings this Accusation before the Bureau under the authority of the
5 following laws. All section references are to the Business and Professions Code (Code) unless
6 otherwise indicated.

7 4. Section 11313 of the Code provides:

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

17 5. Section 11314 of the Code provides, in pertinent part: "The office is required to
18 include in its regulations requirements for licensure and discipline of real estate appraisers that
19 ensure protection of the public interest."

20 6. Section 11315.3 of the Code provides:

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

STATUTORY PROVISIONS

7. Section 22 of the Code provides:

"'Board' as used in any provisions of this code, refers to the board in which the
administration of the provision is vested, and unless otherwise expressly provided, shall include

1 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,'
2 'program,' and 'agency.'"

3 8. Section 11302 of the Code provides, in pertinent part:

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

6

7 (d) (1) 'Appraisal management company' means any person or entity that
8 satisfies all of the following conditions:

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

11 (B) Provides those services in connection with valuing a consumer's
12 principal dwelling as security for a consumer credit transaction or incorporating
such transactions into securitizations.

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

16

17 (e) 'Appraisal management services' means one or more of the following:
18 "(1) Recruiting, selecting, and retaining appraisers.

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

21 (3) Managing the process of having an appraisal performed, including
22 providing administrative services such as receiving appraisal orders and appraisal
23 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.

24 (4) Reviewing and verifying the work of appraisers.

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

....

(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. . . ."

9. Section 11315, subdivision (e) of the Code provides, in pertinent part:

...

(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.

...

10. Section 11316, subdivision (a) of the Code provides, in pertinent part:

(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.

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11. Section 11328.1 of the Code provides:

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.

12. Section 11345.05 of the Code provides:

(a) A registrant shall notify the office within 10 business days, on a form developed by the office, of any additions, deletions, or changes in the names, addresses, and contact information for the individuals listed on its application.

(b) A registrant shall correct information on file with the office within 10 business days of discovering an error in that information, and shall not be subject to disciplinary action by the director or the office for incorrect information the registrant corrects within 10 business days of its discovery as being inaccurate.

REGULATORY PROVISIONS

13. California Code of Regulations (CCR), title 10, section 3500, subdivision (b)(11) provides, in pertinent part:

...

(b) As used in these regulations, the following words and phrases shall have the following definitions:

...

(11) "Designated Officer" means a Controlling Person authorized by the governing structure of the Appraisal Management Company to act on behalf of the company for purposes of application for, and compliance with, a Certificate of Registration to operate as an Appraisal Management Company pursuant to California law. The Designated Officer shall be responsible for the supervision and control of activities conducted on behalf of the Appraisal Management Company by its officers and employees as necessary to secure full compliance with the Real Estate Appraisers' Licensing and Certification Law and these regulations as related to Appraisal Management Companies.

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...
14. CCR, title 10, section 3527, subdivision (b) provides, in pertinent part:

...
(b) All holders of a Certificate of Registration, or a Controlling Person for an Appraisal Management Company shall submit written notice to BREa of any change to the following within 10 days on the Appraisal Management Company Change Notification and Miscellaneous Requests Form REA 5011 (Rev. 1/1/17), which is herein incorporated by reference:

- (1) Name Change (addition or deletion of a Controlling Person);
- (2) Residence telephone number;
- (3) Business telephone number;
- (4) Business name; or
- (5) Mailing address.

Any Form REA 5011 (Rev. 1/1/17) submitted to BREa must be signed by the Designated Officer of the Appraisal Management Company.

...
15. CCR, title 10, section 3721 provides, in pertinent part:

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

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

...
(b) Before issuing any private or public reproof or denying, suspending, or revoking any license or Certificate of Registration issued or issuable under the provisions of the Real Estate Appraisers Licensing and Certification Law or these regulations, the Bureau shall proceed as prescribed by Chapter 5 (commencing

1 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the
2 Administrative Procedure Act) and the Bureau shall have all the powers granted
3 therein.

4 ...

5 **COST RECOVERY**

6 16. Section 11409, subdivision (a) of the Code provides:

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Respond to Inquiry from Bureau)**

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

20 18. Hanwei Liang is a Controlling Person of Respondent under Code section 11302,
21 subdivision (i). On or about December 31, 2018, the Bureau sent a letter to Mr. Liang, requesting
22 certain information, and a written explanation, regarding Mr. Liang being convicted of Penal
23 Code sections 69 (resisting an executive officer), 148(a)(1) (resisting a public or peace officer),
24 and 647(b)(1) (soliciting, engaging, or agreeing to engage in prostitution) on or about October 30,
25 2018. Mr. Liang failed to respond to the Bureau's request, in violation of Code section 11328.1.

26 19. On or about May 29, 2019, the Bureau sent a follow-up letter, again requesting
27 certain information, and a written explanation regarding the convictions. This letter was returned
28 to the Bureau as undeliverable, despite the fact that, as a Controlling Person of Respondent, Mr.
Liang is required to update his address-of-record with the Bureau under CCR, title 10, section
3527, subdivision (b).

20. On or about June 20, 2019, the Bureau sent a letter by certified mail to Laurence G.
Herbert, the Designated Officer for Respondent under California Code of Regulations, title 10,

1 section 3500, subdivision (b)(11). This letter notified Mr. Herbert of the Bureau's efforts to
2 contact Mr. Liang, and Mr. Liang's failure to respond to the Bureau. The letter advised Mr.
3 Herbert that Mr. Liang must respond to the Bureau within 30 days. Both Mr. Herbert and Mr.
4 Liang failed to respond to this letter, in violation of Code section 11328.1.

5 21. Based on the events set forth in paragraphs 18-20, Respondent violated Code section
6 11345.05, subdivision (a) by failing to notify the Bureau of the address change for Mr. Liang.
7 Respondent further violated Code section 11345.05, subdivision (b) by failing to provide the
8 correct information for Mr. Liang when contacted by the Bureau.

9
10 **PRAYER**

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

- 13 1. Revoking or suspending Appraisal Management Company Registration Number
14 3005186, issued to Phenomenal Appraisal Management Company;
- 15 2. Ordering Phenomenal Appraisal Management Company to pay the Bureau of Real
16 Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant
17 to Business and Professions Code section 11409;
- 18 3. Ordering Phenomenal Appraisal Management Company to pay the Bureau of Real
19 Estate Appraisers a fine in the amount of \$10,000.00 pursuant to Business and Professions Code
20 section 11316; and
- 21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 11/12/2019

ORIGINAL SIGNED

24 **AARON KLINGER**
25 Chief of Enforcement
26 Bureau of Real Estate Appraisers
27 Department of Consumer Affairs
28 State of California
Complainant