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

12 In the Matter of the Accusation Against:

Case No. L20200626-03

13 **ANTHEM MARKETING SERVICES,**
14 **INC., DOING BUSINESS AS APEX**
15 **APPRAISALS**
10900 E. 183rd Street, #285C
Cerritos, CA 90703

ACCUSATION

16 **California Appraisal Management**
17 **Company Registration No. 3005204,**

18 Respondent.

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 April 10, 2018, the Bureau of Real Estate Appraisers (formerly Office of
25 Real Estate Appraisers, referred to herein as the “Bureau” or “BREA”) issued California
26 Appraisal Management Company (“AMC”) Registration Number 3005204 to Respondent
27 Anthem Marketing Services, Inc., doing business as Apex Appraisals. The AMC Registration
28

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 April 9, 2022, unless renewed. Vincent D. Martinez is Respondent's Designated Officer and the
3 only designated Controlling Person.

4 JURISDICTION

5 3. This Accusation is brought before the Bureau for the Department of Consumer
6 Affairs, under the authority of the following laws. All section references are to the Business and
7 Professions Code unless otherwise indicated.

8 4. Section 22 states:

9 "Board," as used in any provision of this code, refers to the board in which the
10 administration of the provision is vested, and unless otherwise expressly provided, shall include
11 "bureau," "commission," "committee," "department," "division," "examining committee,"
12 "program," and "agency."

13 5. Section 11301 states:

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

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18 review shall be performed as if this part were scheduled to be repealed as of January 1, 2021.

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

21 6. Section 11313 states:

22 "The bureau is under the supervision and control of the Director of Consumer Affairs.
23 The duty of enforcing and administering this part is vested in the chief, and he or she is
24 responsible to the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules
25 and regulations as are determined reasonably necessary to carry out the purposes of this part.
26 Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section
27 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the
28

1 former Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and
2 its licensees.”

3 7. Section 11314 states, in pertinent part: “The office is required to include in its
4 regulations requirements for licensure and discipline of real estate appraisers that ensure
5 protection of the public interest. . . . The office may additionally include in its regulations
6 requirements for the registration of appraisal management companies consistent with this part.”

7 8. Section 11315.3 states:

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

16 STATUTES

17 9. 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:

20 “. . . .

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

23 “(A) Provides appraisal management services to creditors or to secondary
24 mortgage 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
27 transactions into securitizations.
28

1 “(C) Within a given 12 calendar month period oversees an appraiser panel of
2 more than 15 state-certified or state-licensed appraisers in a state or 25 or more state-
3 certified or state-licensed appraisers in two or more states, as described in Section
4 11345.5.

5 “

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

7 “(1) Recruiting, selecting, and retaining appraisers.

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

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

15 “(4) Reviewing and verifying the work of appraisers.

16 “

17 “(i) ‘Controlling person’ means one or more of the following:

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

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

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

27 “

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

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

6 “

7 “(w) ‘Registration’ means the procedures and requirements with which a person or
8 entity shall comply in order to qualify to conduct business as an appraisal management company.
9 ”

10 10. Section 11328.1 states, in pertinent part:

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

19 11. Section 11345 states, in pertinent part:

20 “The director shall adopt regulations governing the process and procedure of applying for
21 registration as an appraisal management company. Applications for a certificate of registration
22 shall require, at a minimum, all of the following:

23 “

24 “(d) The name, address, and contact information for each controlling person of the
25 applicant who has operational authority to direct the management of, and establish policies for,
26 the applicant.”

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12. Section 11345.05 states, in pertinent part:

“(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, title 10, section 3527 states, 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. . . .”

14. California Code of Regulations, title 10, section 3529 states:

“The Bureau may review and audit the records of applicants, licensees, education providers, registered Appraisal Management Companies and persons or entities acting in a capacity that requires a Certificate of Registration, to determine compliance with the requirements of this chapter and state and federal law. Applicants, licensees, educational providers, and registered Appraisal Management Companies shall cooperate with the Bureau in the conduct of such audits

1 and provide access during normal business hours to records and such information as the Bureau
2 deems reasonably necessary for the completion of the audit.”

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

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

8 “. . . .

9 “(7) Violated any provision of the Real Estate Appraisers’ Licensing and Certification Law,
10 Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or
11 regulations promulgated pursuant thereto; or any provision of the Business and Professions Code
12 applicable to applicants for or holders of licenses or Certificate of Registration. . . .”

13 **FINE PROVISIONS**

14 16. Business and Professions Code section 11315, states in pertinent part:

15 “(a) The director may issue to a licensee, applicant for licensure, person who acts in a
16 capacity that requires a license under this part, course provider, applicant for course provider
17 accreditation, or a person who, or entity that, acts in a capacity that requires course provider
18 accreditation, a citation that may contain an order to pay an administrative fine assessed by the
19 office if the person or entity is in violation of this part or any regulations adopted to carry out its
20 purposes.

21 “. . . .

22 “(e) In no event shall an administrative fine assessed by the office by citation or order
23 exceed ten thousand dollars (\$10,000) per violation. In assessing a fine, the office shall give due
24 consideration to the appropriateness of the amount of the fine with respect to factors such as the
25 gravity of the violation, the good faith of the person who committed the violation, and the history
26 of previous violations. . . .”

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1 17. Business and Professions Code section 11316, subdivision (a) states:

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

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

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

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

18 “(1) The gravity of the violation;

19 “(2) The good or bad faith of the person cited;

20 “(3) The history of previous violations;

21 “(4) Evidence that the violation was willful;

22 “(5) The extent to which the cited person has cooperated with the Office;

23 “(6) The extent to which the cited person has mitigated or attempted to mitigate any loss or
24 potential loss caused by the violation; and

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

26 “(c) Citations issued hereunder shall be subject to review as provided in subsection (b) of
27 Section 3721.”

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1 **COST RECOVERY PROVISION**

2 19. Business and Professions Code section 11409, subdivision (a) states:

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

10 **FACTS**

11 20. On or about June 30, 2017, Respondent filed its initial Statement of Information with
12 the California Secretary of State. On this 2017 Statement of Information, Respondent identified
13 Vincent Martinez as Respondent's Chief Executive Officer, Secretary, and Chief Financial
14 Officer. Vincent Martinez is also identified as Respondent's sole director. The 2017 Statement
15 of Information did not reference or identify Meriam Martinez as an officer or director of
16 Respondent.

17 21. On or about April 9, 2018, Respondent filed an application with the Bureau for an
18 AMC Registration. At the time the Bureau approved the application and issued the registration,
19 Respondent only identified Vincent D. Martinez as a controlling person of Respondent.¹ The
20 application did not reference or identify Meriam Martinez as a controlling person of Respondent.

21 22. On or about October 31, 2019, Respondent filed a Statement of Information with the
22 California Secretary of State. This 2019 Statement of Information indicates there has been no
23 change since the last Statement of Information Respondent filed with California's Secretary of
24 State (the 2017 Statement of Information). The 2019 Statement of Information is signed by
25 Meriam Martinez as Secretary of Respondent.

26
27 ¹ Respondent initially identified a different individual as a controlling person. However, on April
28 9, 2018, before the Bureau issued a registration to Respondent, Respondent filed a form to
remove that individual as a controlling person and to add Vincent D. Martinez as the sole
controlling person of Respondent.

1 23. On or about April 13, 2020, Respondent filed an application with the Bureau to renew
2 its AMC Registration. This application for renewal did not reference or identify Meriam
3 Martinez as a controlling person of Respondent. Respondent only identified Vincent Martinez as
4 the sole controlling person on this application for renewal.

5 24. On April 13, 2020, the Bureau sent Respondent a letter asking Respondent to
6 complete and submit the following documents:

- 7 i. An Appraisal Management Company (AMC) Change of Notification and
8 Miscellaneous Requests form (REA 5011) to add Meriam Martinez as a controlling
9 person;
- 10 ii. An Appraisal Management Company (AMC) Controlling Person Application (REA
11 5002) for Meriam Martinez;
- 12 iii. A completed Request for Live Scan Service (BCII 8016) form; and
- 13 iv. A payment in the amount of \$90.00.

14 This letter stated, “[i]f [Respondent] submits the requested documents within 10 business days, it
15 shall not be subject to disciplinary action for failing to correct the information.” Respondent
16 never responded to this letter.

17 25. On or about May 1, 2020, the Bureau sent Respondent an audit letter requesting
18 documents. The Bureau also informed Respondent that, “[f]ailure to provide the Bureau with the
19 requested information by June 1, 2020, will result in the Bureau seeking disciplinary action
20 against [Respondent].” Respondent never responded to this letter.

21 26. On or about July 6, 2020, Respondent filed a Statement of Information with the
22 California Secretary of State. On this 2020 Statement of Information Respondent identified
23 Vincent Martinez as Respondent’s Chief Executive Officer and Chief Financial Officer, and
24 Respondent identified Meriam Martinez as Respondent’s Secretary. Vincent Martinez is also
25 identified as Respondent’s sole director. The 2020 Statement of Information is signed by
26 Meriam Martinez.

27 27. As of the date of this accusation, Respondent has not notified the Bureau that Meriam
28 Martinez is a controlling person of Respondent. Respondent has also failed to cooperate with the

1 Bureau's audit of Respondent by failing to submit information and documents requested by the
2 Bureau.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(FAILURE TO INFORM THE BUREAU OF NEW CONTROLLING PERSON)**

5 28. Respondent is subject to disciplinary action under California Code of Regulations,
6 title 10, section 3721, subdivision (a)(7), in conjunction with Business and Professions Code
7 section 11345.05 and California Code of Regulations, title 10, section 3527, subdivision (b), since
8 Respondent failed to file an Appraisal Management Company Change Notification and
9 Miscellaneous Requests Form REA 5011 (Rev. 1/1/17), indicating that Meriam Martinez was a
10 controlling person of Respondent within ten days of becoming aware of this change. The Bureau
11 made Respondent aware of this deficiency in letters dated April 13, 2020, and May 1, 2020.
12 Respondent failed to cure this deficiency within ten days of becoming aware of inaccuracies in
13 the information Respondent provided to the Bureau. Complainant refers to and by this reference
14 incorporates the allegations set forth above in paragraphs 20-27, inclusive, as though fully set
15 forth herein.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(FAILURE TO COOPERATE WITH THE BUREAU'S AUDIT)**

18 29. Respondent is subject to disciplinary action under California Code of Regulations,
19 title 10, section 3721, subdivision (a)(7), in conjunction with California Code of Regulations, title
20 10, section 3529, since Respondent failed to provide information and documents to the Bureau
21 that the Bureau requested as part of its audit of Respondent. The Bureau mailed the audit letter to
22 Respondent on May 1, 2020, requesting information and documents, as fully outlined above.
23 Respondent failed to respond to the Bureau's request for information and documents.
24 Complainant refers to and by this reference incorporates the allegations set forth above in
25 paragraphs 20-27, inclusive, as though fully set forth 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 California Appraisal Management Company Registration Number 3005204, issued to Anthem Marketing Services, Inc., doing business as Apex Appraisals;

2. Ordering Anthem Marketing Services, Inc., doing business as Apex 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 Anthem Marketing Services, Inc., doing business as Apex 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: 7/27/2020

ORIGINAL SIGNED

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

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