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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. L20191002-01

13 **PHENOMENAL APPRAISAL**
14 **MANAGEMENT COMPANY;**
24480 Riverview Lane
15 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.

24 STATUTORY PROVISIONS

25 7. Section 22 of the Code provides:

26 "Board" as used in any provisions of this code, refers to the board in which the
27 administration of the provision is vested, and unless otherwise expressly provided, shall include
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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
13 such transactions into securitizations.

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

18

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

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

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

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

. . . .

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

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

3 (2) An individual employed, appointed, or authorized by an appraisal
4 management company that has the authority to enter into a contractual relationship
5 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.

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

8

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

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

13

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

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

18 ...

19 (e) In no event shall an administrative fine assessed by the office by citation
20 or order exceed ten thousand dollars (\$10,000) per violation. In assessing a fine,
21 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
22 person who committed the violation, and the history of previous violations.

23 ...

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

25 (a) The director may assess a fine against a licensee, applicant for licensure,
26 person who acts in a capacity that requires a license under this part, course
27 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:

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(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.

3 ...

4 **COST RECOVERY**

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

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

11 **FIRST CAUSE FOR DISCIPLINE**

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

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

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

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

27 20. On or about June 20, 2019, the Bureau sent a letter by certified mail to Laurence G.
28 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.

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23 DATED: 11/12/2019



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

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