

**BEFORE THE
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**OLIVIA LEE
707 Berkshire Drive
Millbrae, CA 94030**

**Real Estate Appraiser License No.
AR030240**

Respondent.

Case No. C110404-06

OAH No. 2012041030

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Director of the Office of Real Estate Appraisers, as its Decision in this matter.

This Decision shall become effective on 1-7-13.

It is so ORDERED 12-7-12.

Original Signed

FOR THE DIRECTOR OF THE OFFICE OF REAL
ESTATE APPRAISERS

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
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5 P.O. Box 70550
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6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 Attorneys for Complainant

8 **BEFORE THE**
9 **DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. C110404-06

12 **OLIVIA LEE**
13 **707 Berkshire Drive**
Millbrae, CA 94030

OAH No. 2012041030
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 **Real Estate Appraiser License No.**
15 **AR030240**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
22 (Complainant), brought this action solely in her capacity as Chief of Enforcement and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Shana A. Bagley, Deputy Attorney General.

25 2. Respondent Olivia Lee (Respondent) is represented in this proceeding by attorney
26 Frank M. Buda, whose address is: 21243 Ventura Boulevard, # 102, Woodland Hills, CA 91364.

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1 3. On or about January 18, 2006, the Office of Real Estate Appraisers issued Real Estate
2 Appraiser License No. AR030240 to Respondent. The Real Estate Appraiser License was in full
3 force and effect at all times relevant to the charges brought in Accusation No. C110404-06 and
4 will expire on March 4, 2013, unless renewed.

5 **JURISDICTION**

6 4. Accusation No. C110404-06 was filed before the Director of the Office of Real Estate
7 Appraisers (Director), and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on February 1, 2012.
9 Respondent timely filed her Notice of Defense contesting the Accusation.

10 5. When deemed by the Director to be in the public interest, Complainant has the
11 authority under Business and Professions Code section 11315.5 to enter into a settlement related
12 to administrative allegations of violations of the regulations governing the conduct of licensed
13 appraisers and appraisal management companies. The administrative allegations associated with
14 Accusation No. C110404-06 against Respondent are incorporated by reference.

15 6. A copy of Accusation No. C110404-06 is attached as exhibit A and incorporated by
16 reference.

17 **ADVISEMENT AND WAIVERS**

18 7. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. C110404-06. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order.

22 8. Respondent is fully aware of her legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
24 her own expense; the right to confront and cross-examine the witnesses against her; the right to
25 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
26 compel the attendance of witnesses and the production of documents; the right to reconsideration
27 and court review of an adverse decision; and all other rights accorded by the California
28 Administrative Procedure Act and other applicable laws.

1 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 **CULPABILITY**

4 10. Respondent admits the truth of each and every charge and allegation in Accusation
5 No. C110404-06.

6 11. Respondent agrees that her Real Estate Appraiser License is subject to discipline and
7 she agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order
8 below.

9 **CIRCUMSTANCES IN MITIGATION**

10 12. Respondent Olivia Lee has never been the subject of any disciplinary action. She is
11 admitting responsibility at an early stage in the proceedings.

12 **CONTINGENCY**

13 13. This stipulation shall be subject to approval by the Director of the Office of Real
14 Estate Appraisers. Respondent understands and agrees that counsel for Complainant and the staff
15 of the Office of Real Estate Appraisers may communicate directly with the Director regarding
16 this stipulation and settlement, without notice to or participation by Respondent or her counsel.
17 By signing the stipulation, Respondent understands and agrees that she may not withdraw her
18 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
19 it. If the Director fails to adopt this stipulation as its Decision and Order, the Stipulated
20 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
21 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
22 from further action by having considered this matter.

23 14. The parties understand and agree that facsimile copies of this Stipulated Settlement
24 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 16. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Director may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Real Estate Appraiser License No. AR030240 issued to
9 Respondent Olivia Lee is revoked. However, the revocation is stayed and Respondent is placed
10 on probation for two (2) years on the following terms and conditions.

11 **ORDER OF SUSPENSION**

12 1. **Suspension.** Real Estate Appraiser License No. AR030240 issued to Respondent
13 Olivia Lee is suspended for 45 days. During the period of suspension, Respondent shall engage
14 in no activities for which licensure or certification as a Real Estate Appraiser License is required.

15 **STANDARD TERMS AND CONDITIONS OF PROBATION**

16 2. **Obey All Laws.** Respondent shall comply with all federal, state and local laws, and
17 conform to the minimum guidelines set forth under the Uniform Standards of Professional
18 Appraisal Practice (USPAP), and all other laws and regulations pertaining to real estate
19 appraisers.

20 3. **Appraisal Log /Work Samples.** Commencing on the effective date of the Decision
21 and Order and continuing through the period of probation, Respondent shall maintain a log of all
22 appraisals Respondent performs on the Log of Appraisal Experience (REA 3004) form.
23 Respondent will submit a complete and accurate copy of the log of all appraisals completed each
24 six months. Each six-month log shall be submitted to the Office of Real Estate Appraisers within
25 30 days following the end of each six-month period. Respondent understands that the Office of
26 Real Estate Appraisers will select work samples for review from each submitted six-month
27 appraisal log.

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1 **4. Monitoring Costs.** Respondent shall pay costs associated with monitoring each and
2 every year of probation. Respondent shall comply with the Office's probation compliance
3 monitoring program. Failure to pay costs or comply with probation monitoring shall be
4 considered a violation of probation. Said costs shall be in a sum sufficient to cover the costs
5 incurred by the Office in reviewing appraisals, and other monitoring, in an amount not to exceed
6 \$250 per six-month period.

7 **5. Personal Appearances.** Respondent shall, during the period of probation, appear in
8 person at interviews/meetings as directed by the Office of Real Estate Appraisers or its designated
9 representatives, provided such notification is accomplished in a timely manner.

10 **6. Comply With Probation.** Respondent shall fully comply with the terms and
11 conditions of the probation imposed by the Director of the Office of Real Estate Appraisers and
12 shall cooperate fully with representatives of the Office in its monitoring and investigation of
13 Respondent's compliance with the terms and conditions of probation.

14 **7. Monitoring.** Respondent shall be subject to, and shall permit, monitoring and
15 investigation of Respondent's professional practice. Such monitoring and investigation shall be
16 conducted by representatives of the Office of Real Estate Appraisers.

17 **8. Active License Status.** Respondent shall at all times maintain an active license
18 status with the Office of Real Estate Appraisers, including during any period of suspension. If the
19 license is expired at the time the Decision and Order of the Director of the Office of Real Estate
20 Appraisers becomes effective, the license must be renewed within 30 days of the effective date of
21 the Decision and Order.

22 **9. Tolling of Probation For Out-of-State Residence/Practice.** In the event
23 Respondent should leave California to reside or practice outside this state, Respondent must
24 notify the Office of Real Estate Appraisers, in writing, of the dates of departure and return.
25 Periods of non-California residency or practice outside the state shall not apply to reduction of the
26 probationary period, or of any suspension. No obligation imposed in this Accusation, including
27 requirements to file written reports, reimburse the Office costs, or make restitution to consumers,
28

1 shall be suspended or otherwise affected by such periods of out-of-state residency or practice
2 except at the written direction of the Office of Real Estate Appraisers.

3 **10. Violation of Probation.** If Respondent violates probation in any respect, the
4 Director of the Office of Real Estate Appraisers, after giving Respondent notice and an
5 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
6 stayed. If an accusation or a petition to revoke probation is filed against Respondent during
7 probation, the Director shall have continuing jurisdiction until the matter is final, and the period
8 of probation shall be extended until the matter is final.

9 **11. Cost Reimbursement.** Respondent shall reimburse the Office of Real Estate
10 Appraisers \$3,000.00 for its investigation and prosecution costs. The costs shall be made in
11 payments, with the final payment being due not later than the date that probation is scheduled to
12 terminate, and shall be made in accordance with the following schedule: a payment of \$375.00 is
13 due within 30, 180, 270, 360, 450, 540, 630, and 720 days after the effective date of the Decision.
14 Payment shall be made to the Real Estate Appraisers Regulation Fund, c/o Office of Real Estate
15 Appraisers, 1102 Q Street, Suite 4100, Sacramento, California 95811 by check or money order
16 and shall indicate on its face the notation: OREA Case No. C110404-06. Failure to reimburse the
17 Office of Real Estate Appraiser's costs of its investigation and prosecution shall constitute a
18 violation of the probationary order. Respondent shall not be eligible to renew her license until
19 such time as full payment of the outstanding fine has been made.

20 **12. Uniform Standards of Professional Appraisal Practice Course /Examination.**
21 Respondent shall take and pass an Office of Real Estate Appraisers approved 15-hour basic
22 education course on the Uniform Standards of Professional Appraisal Practice within 12 months
23 of the date the Decision and Order of the Director of the Office of Real Estate Appraisers is final.
24 The course must be The Appraisal Foundation's National USPAP Course (or its equivalent as
25 determined solely by the Appraiser Qualifications Board (AQB) Course Approval Program), and
26 must be taught by an AQB Certified USPAP Instructor who is also a Certified Residential or
27 Certified General appraiser in good standing with OREA. The course must administer a closed
28 book final examination. Respondent must submit proof of successful completion of the course

1 and final examination within 12 months following the date the Decision and Order of the Director
2 of the Office of Real Estate Appraisers is final. Respondent understands that it is her
3 responsibility to ensure that the course meets all of the requirements listed above and to apply for,
4 schedule, and make all arrangements to take the course.

5 **13. Minimum education requirements.** Educational courses imposed as a term or
6 condition of probation by the Director may not be credited towards Respondent's continuing
7 education requirements required for renewal of Respondent's real estate license.

8 **14. Payment of Outstanding Fine.** Respondent further acknowledges and agrees to pay
9 a fine pursuant to Business and Professions Code section 11316, subdivision (a), and California
10 Code of Regulations, title 10, section 3721, subdivision (a), for the sum of \$5,000.00. The fine
11 shall be made in payments, with the final payment being due not later than the date that probation
12 is scheduled to terminate, and shall be made in accordance with the following schedule: a
13 payment of \$625.00 is due within 30, 180, 270, 360, 450, 540, 630, and 720 days after the
14 effective date of the Decision. Payment shall be made to the Real Estate Appraisers Regulation
15 Fund, c/o Office of Real Estate Appraisers, 1102 Q Street, Suite 4100, Sacramento, California
16 95811 by check or money order and shall indicate on its face the notation: OREA Case No.
17 C110404-06. Respondent shall also submit the *Remittance Notification* (REA 2032) form with
18 payment, which will be provided by the Office upon acceptance of this Stipulation. If full
19 payment is not received by the Office by the date due as noted in the invoice, a 10 percent late
20 penalty shall be added to the unpaid balance and interest will accrue on the unpaid balance at the
21 pooled money investment rate in effect at that time, until the full amount is paid. If the unpaid
22 balance plus 10 percent late penalty and interest on the unpaid balance are not received by the
23 Office within 30 days thereafter, Respondent's appraiser license may be automatically suspended
24 without further notice from the Office and will not be eligible for reinstatement prior to receipt of
25 the full payment of the unpaid balance, penalty, and interest. Respondent shall not be eligible to
26 renew her license until such time as full payment of the outstanding fine has been made.

OCT-30-2012 15:21

DOJ OAKLAND

510 622 2271

P.09

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Frank M. Buda, Esq. I understand the stipulation and the effect it will have on my Real Estate Appraiser License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Office of Real Estate Appraisers.

DATED:

11/1/2012

Original SignedOLIVIA LEE
Respondent

I have read and fully discussed with Respondent Olivia Lee the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

11-1-12

Original SignedFrank M. Buda, Esq.
Attorney for Respondent**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Office of Real Estate Appraisers.

DATED:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney GeneralSHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

SF2011400408/ Stipulation.pdf

1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Frank M. Buda, Esq. I understand the stipulation and the effect it
4 will have on my Real Estate Appraiser License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Director of the Office of Real Estate Appraisers.

7
8 DATED: _____

9 OLIVIA LEE
Respondent

10
11 I have read and fully discussed with Respondent Olivia Lee the terms and conditions and
12 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
13 form and content.

14 DATED: _____

15 Frank M. Buda, Esq.
Attorney for Respondent

16
17 **ENDORSEMENT**

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Director of the Office of Real Estate Appraisers.

20 DATED: 1 November 2012

Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 DIANN SOKOLOFF
Supervising Deputy Attorney General

24 ***Original Signed***

25 SHANA A. BAGLEY
26 Deputy Attorney General
Attorneys for Complainant

27
28 SF2011400408/ Stipulation.rtf

Exhibit A

Accusation No. C110404-06

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 Attorneys for Complainant

8 **BEFORE THE**
DIRECTOR OF THE OFFICE OF REAL ESTATE APPRAISERS
9 **STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:

Case No. C110404-06

12 **OLIVIA LEE**
707 Berkshire Drive
13 Millbrae, CA 94030

A C C U S A T I O N

14 **Real Estate Appraiser License No.**
15 **AR030240**

Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

20 1. Elizabeth Seaters, acting on behalf of the Office of Real Estate Appraisers
21 (Complainant), brings this Accusation solely in her official capacity as the Acting Chief of
22 Enforcement for the Complainant.

23 2. On or about January 18, 2006, the Director of the Office of Real Estate Appraisers
24 issued Real Estate Appraiser License Number AR030240 to Olivia Lee (Respondent). The Real
25 Estate Appraiser License was in full force and effect at all times relevant to the charges brought in
26 this Accusation and will expire on March 4, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Director of the Office of Real Estate Appraisers (Director), under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Respondent is a licensed real estate appraiser pursuant to the Real Estate Appraisers' Licensing and Certification Law, Part 3 (commencing with section 11300 of Division 4 of the Business and Professions Code of the State of California) and is subject to the disciplinary regulations enacted pursuant to law and the provisions of the California Code of Regulations, title 10, chapter 6.5 (commencing with section 3500).

STATUTORY PROVISIONS

5. Code section 11301 provides, in pertinent part, for the creation within the Business, Transportation and Housing Agency of an Office of Real Estate Appraisers to administer and enforce the Real Estate Appraisers' Licensing and Certification Law.

6. Code section 11313 states, in pertinent part:

The office [Office of Real Estate Appraisers] is under the supervision and control of the secretary [secretary of the Business, Transportation and Housing Agency]. The duty of enforcing and administering this part is vested in the director [director of the Office of Real Estate Appraisers] and he or she is responsible to the secretary therefor. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part.

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

8. Code section 11316, subdivision (a), states:

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.

///

1 9. Code section 11319 states:

2 Notwithstanding any other provision of this code, the Uniform Standards of
3 Professional Appraisal Practice constitute the minimum standard of conduct and
4 performance for a licensee in any work or service performed that is addressed by
5 those standards. If a licensee also is certified by the Board of Equalization, he or she
6 shall follow the standards established by the Board of Equalization when fulfilling his
7 or her responsibilities for assessment purposes.¹

8 10. Code section 11325, subdivision (a), states that "[t]he director shall adopt regulations
9 which determine the parameters of appraisal work which may be performed by licensed
10 appraisers."

11 REGULATORY PROVISIONS

12 11. California Code of Regulations, title 10, section 3701 states:

13 Every holder of a license under this part shall conform to and observe the
14 Uniform Standards of Professional Appraisal Practice (USPAP) and any subsequent
15 amendments thereto as promulgated by the Appraisal Standards Board of The
16 Appraisal Foundation which standards are herein incorporated into these regulations
17 by reference as if fully set forth herein.

18 12. California Code of Regulations, title 10, section 3702, states, in part:

19 (a) The Director finds and declares as follows:

20 (1) That the profession of real estate appraisal is vested with a fiduciary
21 relationship of trust and confidence as to clients, lending institutions, and both public
22 and private guarantors or insurers of funds in federally-related real estate transactions
23 and that the qualifications of honesty, candor, integrity, and trustworthiness are
24 directly and substantially related to and indispensable to the practice of the appraisal
25 profession;

26 (3) Every holder of a license to practice real estate appraisal, registrant,
27 controlling person of an appraisal management company, or person or entity acting in
28 a capacity requiring a license or certificate of registration shall be required to
demonstrate by his or her conduct that he or she possesses the qualifications of
honesty, candor, integrity, and trustworthiness.

¹ All provisions of the Uniform Standards of Professional Appraisal Practice (USPAP)
and Standard Rules hereinafter cited refer to the USPAP 2006 Edition of the Appraisal Standards
Board.

1
2 13. California Code of Regulations, title 10, section 3721 states, in part:

3 (a) The Director may . . . suspend or revoke any license, and/or may deny the
4 issuance or renewal of a license of any person who has:

5 . . .
6 (6) Violated any provision of USPAP;

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

12 . . .
13 (b) Before . . . suspending, or revoking any license issued or issuable under the
14 provisions of the Real Estate Appraisers Licensing and Certification Law or these
15 regulations, the Office shall proceed as prescribed by Chapter 5 (commencing with
16 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the
17 Administrative Procedure Act) and the Office shall have all the powers granted
18 therein.

19 . . .
20 14. USPAP Standards Rule 1-1 states, in part:

21 In developing a real property appraisal, an appraiser must:

22 (a) be aware of, understand, and correctly employ those recognized methods
23 and techniques that are necessary to produce a credible appraisal;

24 (b) not commit a substantial error of omission or commission that significantly
25 affects an appraisal;

26 . . .
27 15. USPAP Standards Rule 1-2 states, in part:

28 In developing a real property appraisal, an appraiser must:

29 . . .
30 (e) identify the characteristics of the property that are relevant to the type and
31 definition of value and intended use of the appraisal, including:

1 (i) its location and physical, legal, and economic attributes;

2 (ii) the real property interest to be valued;

3 (iii) any personal property, trade fixtures, or intangible items that are not real
4 property but are included in the appraisal;

5 (iv) any known easements, restrictions, encumbrances, leases, reservations,
6 covenants, contracts, declarations, special assessments, ordinances, or other items of
7 similar nature; and

8 (v) whether the subject property is a fractional interest, physical segment, or
9 partial holding;

10 16. USPAP Standards Rule 1-3 states, in part:

11 When necessary for credible assignment results in developing a market value
12 opinion, an appraiser must . . .

13 (b) develop an opinion of the highest and best use of the real estate.

14 17. USPAP Standard Rule 1-5 states, in part:

15 In developing a real property appraisal, when the value of the opinion to be
16 developed is market value, an appraiser must, if such information is available to the
17 appraiser in the normal course of business:

18 (a) analyze all agreements of sale, options, or listings of the subject property
19 current as of the effective date of the appraisal;

20 18. USPAP Standards Rule 2-1(a) states that each written or oral real property
21 appraisal report must clearly and accurately set forth the appraisal in a manner that will not be
22 misleading.

23
24 19. USPAP Standards Rule 2-2 states, in part:

25 Each written real property appraisal report must be prepared under one of the
26 following three options and prominently state which option is used: Self-Contained
27 Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

1 (b) The content of a Summary Appraisal Report must be consistent with the
2 intended use of the appraisal and, at a minimum:

3 ...
4 (iii) summarize information sufficient to identify the real estate involved in the
5 appraisal; including the physical and economic property characteristics relevant to the
6 assignment;

7 ...
8 (viii) summarize the information analyzed, the appraisal methods and
9 techniques employed, and the reasoning that supports the analysis, opinions, and
10 conclusions; exclusion of the sales comparison approach, cost approach, or income
11 approach must be explained;

12 ...
13 (ix) state the use of the real estate existing as of the date of value and the use of
14 the real estate reflected in the appraisal; and, when the opinion of highest and best use
15 was developed by the appraiser, summarize the support and rationale for that opinion;

16 ...
17 20. The USPAP Ethics Rule states, in part:

18 To promote and preserve the public trust inherent in professional appraisal
19 practice, an appraiser must observe the highest standards of professional ethics. ...

20 Conduct:

21 An appraiser must perform assignments ethically and competently, in
22 accordance with USPAP and any supplemental standards agreed to by the appraiser in
23 accepting the assignment. An appraiser must not engage in criminal conduct. An
24 appraiser must perform assignments with impartiality, objectivity, and independence,
25 and without accommodation of personal interests.

26 In appraisal practice, an appraiser must not perform as an advocate for any
27 party or issue.

28 An appraiser must not accept an assignment that includes the reporting of
predetermined opinions and conclusions.

An appraiser must not communicate results in a misleading or fraudulent
manner. An appraiser must not use or communicate a misleading or fraudulent report
or knowingly permit an employee or other person to communicate a misleading or
fraudulent report.

1 An appraiser must not use or rely on unsupported conclusions relating to
2 characteristics such as race, color, religion, national origin, gender, marital status,
3 familial status, age, receipt of public assistance income, handicap, or an unsupported
4 conclusion that homogeneity of such characteristics is necessary to maximize value.

5 COST RECOVERY

6 21. Code section 11409, subdivision (a), states, in part:

7 Except as otherwise provided by law, any order issued in resolution of a
8 disciplinary proceeding may direct a licensee . . . found to have committed a
9 violation or violations of statutes or regulations relating to real estate appraiser
10 practice to pay a sum not to exceed the reasonable costs of investigation,
11 enforcement, and prosecution of the case.

11 WILCOX PROPERTY

12 22. On or about May 29, 2007, Respondent appraised the fee simple interest in a
13 residential property located at 2232 Wilcox Avenue in San Pablo, California at \$335,000.00. The
14 subject property improvements consisted of a 79-year old, 1334 square foot, 3 bedroom, 2
15 bathroom, single-family residence situated on an R-3 (Multi-Family Residential) zoned site and a
16 5,750 square foot lot with a 450 square foot garage/storage space. The purpose of the appraisal
17 was to secure financing for the property's buyer.

18 23. The house sold for \$254,000.00 in June of 2007. After the sale and during a major
19 renovation project, the owners discovered that the home had to be demolished due to extensive
20 dry rot and termite damage. Eventually, the lender foreclosed on the property and in July of
21 2009, it sold as a vacant lot for \$37,500.00.

22 24. Respondent's 2007 appraisal report contained significant errors of omission and
23 commission and violated the provisions of USPAP as indicted below. Respondent improperly
24 identified the zoning of the property, failed to consider property uses other than single family
25 residential, grossly misrepresented the conditions of the improvements, and failed to analyze the
26 disparity between the contract price and her market value opinion, resulting in an overvaluation of
27 the subject property.

28 ///

FIRST CAUSE FOR DISCIPLINE
(Failure to Identify Zoning)
(USPAP Std. Rules 1-2(e)(i), 1-3(b), and 2-2(b)(iii) and (b)(ix))

25. Respondent's license is subject to disciplinary action under USPAP Standard Rules 1-2(e)(i), 1-3(b), 2-2(b)(iii), and (b)(ix), in that she reported the zoning of the property as R-1 (Single Family Residence) when it was actually zoned as R-3 (Multi-Family Residential). As a result, the Highest and Best Use Analysis in the appraisal report was based upon a faulty premise and not credible.

SECOND CAUSE FOR DISCIPLINE
(Failure to Identify Relevant Property Characteristics: Misstated Condition of Property)
(USPAP Std. Rules 1-2(e)(i), 2-1(a), and 2-2(b)(viii))

26. Respondent's license is subject to disciplinary action under USPAP Standard Rules 1-2(e)(i), 2-1(a), 2-2(b)(viii), and the Conduct section of the Ethics Rule in that she grossly overstated the condition of the home and created a misleading report. Respondent failed to report the extensive damage to the home's exterior and, instead, described the property's condition as "average." The report only included two photographs of the house's exterior. These photographs did not show the deferred maintenance that was visible on other parts of the house's exterior. In addition, contrary to industry standard, Respondent failed to include a photograph of the rear of the house.

THIRD CAUSE FOR DISCIPLINE
(Failure to Identify Relevant Property Characteristics: Misrepresentation of Condition)
(USPAP Std. Rules 1-2(e)(i) and 2-2(b)(iii))

27. Respondent's license is subject to disciplinary action under USPAP Standard Rules 1-2(e)(i) and 2-2(b)(iii), in that she failed to sufficiently identify and summarize characteristics of the subject property relevant to the purpose and intended use of the appraisal. Respondent significantly misrepresented the subject property's 450 square foot garage as a five-car garage.

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1 **FOURTH CAUSE FOR DISCIPLINE**
2 **(Failure to Analyze Contract Price)**
3 **(USPAP Std. Rules 1-5(a) and 2-2(b)(viii))**

4 28. Respondent's license is subject to disciplinary action under USPAP Standard Rules 1-
5 5(a) and 2-2(b)(viii), in that she failed to analyze the disparity between the \$254,000.00 contract
6 price and her \$335,000.00 market value opinion.

7 **FIFTH CAUSE FOR DISCIPLINE**
8 **(Failure to Employ Recognized Methods and Techniques)**
9 **(USPAP Std. Rule 1-1(a))**

10 29. Respondent's license is subject to disciplinary action under USPAP Standard Rule 1-
11 1(a), in that she failed to be aware of, understand, and correctly employ the recognized methods
12 and techniques necessary to produce a credible appraisal report, as more particularly set forth in
13 Paragraphs 22-28, above.

14 **SIXTH CAUSE FOR DISCIPLINE**
15 **(Commission of Substantial Errors)**
16 **(USPAP Std. Rule 1-1(b))**

17 30. Respondent's license is subject to disciplinary action under USPAP Standard Rule 1-
18 1(b), in that Respondent committed substantial errors of omission or commission that
19 significantly affected the appraisal, as more particularly set forth in Paragraphs 22-28, above.

20 **SEVENTH CAUSE FOR DISCIPLINE**
21 **(Failure to Comply with Conduct Section of Ethics Rule)**
22 **(USPAP Ethics Rule)**

23 31. Respondent's license is subject to disciplinary action under the Conduct section of the
24 USPAP Ethics Rule in that she grossly misrepresented and overvalued the subject property, as
25 more particularly set forth in Paragraphs 22-28, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of the Office of Real Estate Appraisers issue a decision:

1. Revoking or suspending Real Estate Appraiser License Number AR030240, issued to Olivia Lee;
2. Ordering Olivia Lee to pay the Director of the Office 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 Olivia Lee to pay the Director of the Office of Real Estate Appraisers a fine pursuant to Business and Professions Code section 11316; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 1/31/12

Original Signed

ELIZABETH SEATERS
Acting Chief of Enforcement
Office of Real Estate Appraisers
State of California
Complainant

SF2011400408/ accusation.rtf