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

9 In the Matter of the Accusation Against:

Case No. C090218-01

10 **RAMON AVALOS**
11 **3114 Grandview Lane**
12 **Bakersfield, CA 93313**

DEFAULT DECISION AND ORDER

13 **Real Estate Appraiser License No.**
14 **AT042059**

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about February 15, 2011, Elizabeth Seaters, acting solely in her official
18 capacity as the Acting Chief of Enforcement, acting on behalf of the Office of Real Estate
19 Appraisers (Complainant), filed Accusation No. C090218-01 against Ramon Avalos
20 (Respondent) before the Director of the Office of Real Estate Appraisers. (Accusation attached as
21 Exhibit A.)

22 2. On or about February 16, 2007, the Director of the Office of Real Estate Appraisers
23 (Director) issued Real Estate Appraiser Trainee License No. AT042059 to Respondent. The Real
24 Estate Appraiser Trainee License expired on February 15, 2009, and has not been renewed.

25 3. On or about February 15, 2011, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. C090218-01, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of

1 Regulations, section 3527, is required to be reported and maintained with the Director.

2 Respondent's address of record was and is:

3 3114 Grandview Lane, Bakersfield, CA 93313.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. The Domestic Return Receipt was returned by the U.S. Postal Service indicating that
8 Respondent received the documents on February 17, 2011.

9 6. Government Code section 11506 states, in pertinent part:

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

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
15 C090218-01.

16 8. California Government Code section 11520 states, in pertinent part:

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

20 9. Pursuant to its authority under Government Code section 11520, the Deputy Director
21 finds Respondent is in default. The Deputy Director will take action without further hearing and,
22 based on the relevant evidence contained in the Default Decision Evidence Packet in this matter,
23 as well as taking official notice of all the investigatory reports, exhibits and statements contained
24 therein on file at the Director's offices regarding the allegations contained in Accusation No.
25 C090218-01, finds that the charges and allegations in Accusation No. C090218-01, are separately
26 and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 11409, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$615.03 as of April 26, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Ramon Avalos has subjected his Real Estate Appraiser Trainee License No. AT042059 to discipline.

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

3. The Deputy Director of the Office of Real Estate Appraisers is authorized to revoke Respondent's Real Estate Appraiser License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. Title 10, California Code of Regulations, sections 3721(a)(2), (a)(4), (a)(6) and (a)(7), 3701, 3702 (a)(1) and (a)(3), 3527(a) and the following USPAP provisions: Standards Rule 1-2(h), 2-1(a), 2-2(b)(vii), 2-3, the Scope of Work Rule, the Conduct Section of the Ethics Rule, and Business and Professions Code Section 11328.

ORDER

IT IS SO ORDERED that Real Estate Appraiser License No. AT042059, heretofore issued to Respondent Ramon Avalos, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may

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1 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

2 This Decision shall become effective on May 10, 2012.

3 It is so ORDERED May 10, 2012

4 **Original Signed**

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6 **FOR THE DEPUTY DIRECTOR OF THE OFFICE
OF REAL ESTATE APPRAISERS**

7
8 20597783.DOC
DOJ Matter ID:SF2012204306

9 Attachment:
10 Exhibit A: Accusation

Exhibit A

Accusation

1 Kathleen S. Chovan
2 Department Counsel, State Bar No. 158325
3 Office of Real Estate Appraisers
4 1102 "Q" Street, Suite 4100
5 Sacramento, CA 95811
6 Telephone: (916) 552-9000
7 Facsimile: (916) 552-9008
8 *Attorney for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. C090218-01

13 **RAMON A. AVALOS**
14 3100 Willow Basin Lane
15 Bakersfield, CA 93313

A C C U S A T I O N

16 **Residential Appraisal License No.**
17 **AT042059**

Respondent.

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 a Supervising Property
22 Appraiser Investigator for Complainant. She is represented in this matter by Department Counsel
23 for the Office of Real Estate Appraisers, Kathleen S. Chovan.

24 2. On or about February 16, 2007, the Director of the Office of Real Estate Appraisers
25 (Director) issued Trainee Appraiser License Number AT042059 to Ramon A. Avalos .
26 (Respondent). Respondent's real estate appraiser license was in full force and effect at all times
27 relevant to the charges brought herein. Respondent's real estate appraiser license expired on
28 February 15, 2009 and has not been renewed.

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JURISDICTION

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

4. Code section 11313 requires OREA to adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of the Real Estate Appraisers' Licensing and Certification law.

5. 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.

FINES

6. 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.

MINIMUM STANDARDS FOR CONDUCT AND PERFORMANCE

7. Code section 11319 states:

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

8. Code section 11328 states:

To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a licensee, applicant, or other person acting in the capacity that requires a license, that licensee, applicant or person shall, upon the request of the director, submit

1 copies of appraisals, or any work product which is addressed by the Uniform Standards of
2 Professional Appraisal Practice, and all supporting documentation and data to the office. This
3 material shall be confidential in accordance with the confidentiality provisions of the Uniform
4 Standards of Professional Appraisal Practice.

5 COST RECOVERY

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

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

14 REGULATORY PROVISIONS

15 10. The OREA regulations appear in Title 10, Chapter 6.5, section 3500 et seq., as
16 amended from time to time, of the California Code of Regulations (Regulation.)

17 11. Regulation section 3527, subdivision (a) states, in pertinent part:

18 (a) All applicants for and holders of a license...shall submit written notice to OREA
19 of any change to the following within 10 days on the Change Notification and Miscellaneous
20 Requests Form REA 3011 (Rev. 5/8/00), which is herein incorporated by reference:

- 21 (1) Name;
- 22 (2) Residence telephone number
- 23 (3) Business telephone number
- 24 (4) Residence Address
- 25 (5) Business name or address; or
- 26 (6) Mailing address.

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1 12. California Code of Regulations, title 10, ("Regulation") section 3701 states:

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

6 13. Regulation section 3702 (a) states, in pertinent part:

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

8 (1) That the profession of real estate appraisal is vested with a fiduciary
9 relationship of trust and confidence as to clients, lending institutions, and both public
10 and private guarantors or insurers of funds in federally-related real estate transactions
11 and that the qualifications of honesty, candor, integrity and trustworthiness are
12 directly and substantially related to and indispensable to the practice of the appraisal
13 profession...

14 (3) Every holder of a license to practice real estate appraisal...shall be
15 required to demonstrate by his or her conduct that he or she possesses the
16 qualifications of honesty, candor, integrity and trustworthiness.

17 14. Regulation section 3705 (a) states:

18 Every appraisal report subject to the Uniform Standards of Professional Appraisal
19 Practice upon final completion shall bear the signature and license number of the appraiser and
20 of the supervising appraiser, if appropriate. The affixing of such signature and number
21 constitute the acceptance by the appraiser and supervising appraiser of full and personal
22 responsibility for the accuracy, content, and integrity of the appraisal under Standards Rules 1
23 and 2 of USPAP.

24 15. Regulation 3721 states, in pertinent part:

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

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

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

(6) Violated any provision of USPAP

(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.

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP)

(EFFECTIVE JANUARY 1, 2008)¹

16. USPAP Standard 1 states:

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

17. USPAP Standards Rule 1-2 states, in pertinent part:

In developing a real property appraisal, an appraiser must:

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE...

18. USPAP Standard 2 states:

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

19. USPAP Standards Rule 2-1 states, in pertinent part:

Each written or oral real property appraisal report must:

¹ USPAP is periodically revised: appraisers are responsible for adherence to the edition of USPAP in effect as of the date of report for an appraisal. The 2008-2009 edition of USPAP (effective January 1, 2008, through December 31, 2009), was applicable to the appraisals in this case, which had report dates in January and May of 2008.

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading:...

20. USPAP Standards Rule 2-2(b) states, in pertinent part:

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

(vii) summarize the scope of work used to develop the appraisal;

21. USPAP Standards Rule 2-3 states:

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

1 --- my analyses, opinions, and conclusions were developed, and this report has been
2 prepared, in conformity with the *Uniform Standards of Professional Appraisal*
3 *Practice*.

4 --- I have (or have not) made a personal inspection of the property that is the subject of
5 this report. (If more than one person signs this certification, the certification must
6 clearly specify which individuals did and which individuals did not make a personal
7 inspection of the appraised property.)

8 --- no one provided significant real property appraisal assistance to the person signing
9 this certification. (If there are exceptions, the name of each individual providing
10 significant real property appraisal assistance must be stated.)

11 22. The Ethics Rule of USPAP provides, in pertinent part:

12 To promote and preserve the public trust inherent in professional appraisal practice,
13 an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is
14 divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The
15 first three sections apply to all appraisal practice, and all four sections apply to appraisal practice
16 performed under STANDARDS 1 through 10.

17 Compliance with USPAP is required when either the service or the appraiser is
18 obligated by law or regulation, or by agreement with the client or intended users, to comply. In
19 addition to these requirements, an individual should comply any time that individual represents
20 that he or she is performing the service as an appraiser.

21 An appraiser must not misrepresent his or her role when providing valuation services
22 that are outside of appraisal practice.

23 Conduct:

24 An appraiser must perform assignments ethically and competently, in accordance
25 with USPAP.

26 An appraiser must not engage in criminal conduct.

27 An appraiser must perform assignments with impartiality, objectivity, and
28 independence, and without accommodation of personal interests.

1 An appraiser must not advocate the cause or interest of any party or issue.

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

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

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

13 23. The Scope of Work Rule in USPAP states:

14 **SCOPE OF WORK RULE**

15 For each appraisal, appraisal review, and appraisal consulting assignment, an
16 appraiser must:

- 17 1. identify the problem to be solved;
- 18 2. determine and perform the scope of work necessary to develop credible
19 assignment results; and
- 20 3. disclose the scope of work in the report

21 An appraiser must properly identify the problem to be solved in order to determine
22 the appropriate scope of work. The appraiser must be prepared to demonstrate that the
23 scope of work is sufficient to produce credible assignment results.

24 Problem Identification

25 An appraiser must gather and analyze information about those assignment elements
26 that are necessary to properly identify the appraisal, appraisal review, or appraisal consulting
27 problem to be solved.

28 Scope of Work Acceptability

1 The scope of work must include the research and analyses that are necessary to
2 develop credible assignment results.

3 An appraiser must not allow assignment conditions to limit the scope of work to such
4 a degree that the assignment results are not credible in the context of the intended use.

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6 An appraiser must not allow the intended use of an assignment or client's objectives
7 to cause the assignment results to be biased.

8 Disclosure Obligation

9 The report must contain sufficient information to allow intended users to understand
10 the scope of work performed.

11 **BASIS FOR DISCIPLINE**

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to notify of change of address pursuant to Regulation 3527)**

14 24. Respondent is subject to disciplinary action under Regulation section 3721,
15 subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702
16 subdivisions (a) (1) and (a) (3), for Respondent's failure to notify Complainant of Respondent's
17 change of address within ten days as required under Regulation 3527(a). Numerous OREA
18 demand letters were sent to Respondent's business and home address of record as provided to
19 OREA by Respondent. Neither of those addresses was current, and the demand letters came back
20 to OREA as "unclaimed and unable to forward."

21 **PROPERTY #1: 6700 Winnetka Avenue, Winnetka, CA**

22 25. On or about January 10, 2008, Respondent completed a real estate appraisal report for
23 property located at 6700 Winnetka Avenue, Winnetka, California.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(False Certification regarding Compliance with Scope of Work Rule)**

26 26. Respondent is subject to disciplinary action under Regulation section 3721,
27 subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702
28 subdivisions (a) (1) and (a) (3), and various USPAP in that Respondent violated Standard Rule

(S.R) 1-2(h), 2-1(a), 2-2(b)(vii), 2-3 and the Scope of Work Rule by falsely certifying that he inspected the interior of the subject property.

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THIRD CAUSE FOR DISCIPLINE

(Forgery of Signature with Intent to Benefit Himself in violation of Ethics Rule)

27. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702 subdivisions (a) (1) and (a) (3), and the following USPAP sections, in that Respondent violated Regulation sections 3721 (a)(2), (4), (6) and (7); and USPAP, Conduct Section of the Ethics Rule, and S.R. 2-1(a), and 2-3 by committing acts involving dishonesty, fraud or deceit, with the intent to benefit himself by forging the signature of Louis Ramirez

FORTH CAUSE FOR DISCIPLINE

(Failure to Cooperate with Investigation- 6700 Winnetka Avenue property)

28. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (7), by and through his violation of Code Section 11328 in that Respondent failed to cooperate with the investigation and provide a copy of the appraisal report and associated workfile for the property located at 6700 Winnetka Avenue, Winnetka, California when requested to do so. Respondent repeatedly and continuously failed to cooperate with Complainant during its investigation, even after Complainant identified Respondent's correct address through Department of Motor Vehicles records and sent two demand letters via certified mail to this address, which were subsequently signed for and accepted by Respondent. Complainant also unable to contact Respondent by telephone, after numerous attempts in which no one answered the phone and no answering machine was available to leave a message.

PROPERTY #2: 1343 Citrus Avenue, Los Angeles, CA

29. On or about May 13, 2008, Respondent completed a real estate appraisal report for property located at 1343 Citrus Avenue, Los Angeles, California.

FIFTH CAUSE FOR DISCIPLINE

(False Certification regarding Compliance with Scope of Work Rule)

30. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702 subdivisions (a) (1) and (a) (3), and various USPAP in that Respondent violated S.R. 1-2(h), 2-1(a), 2-2(b)(vii), 2-3 and the Scope of Work Rule by falsely certifying that he inspected the interior of the subject property.

SIXTH CAUSE FOR DISCIPLINE

(Forgery of Signature with Intent to Benefit Himself in violation of Ethics Rule)

31. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (6) and (a) (7), by and through his violation of Regulation sections 3701, 3702 subdivisions (a) (1) and (a) (3), and the following USPAP sections, in that Respondent violated Regulation sections 3721 (a)(2), (4), (6) and (7); and USPAP, Conduct Section of the Ethics Rule, and S.R. 2-1(a), and 2-3 by committing acts involving dishonesty, fraud or deceit, with the intent to benefit himself by forging the signature of Louis Ramirez

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Cooperate with Investigation- 1343 Citrus Avenue property)

32. Respondent is subject to disciplinary action under Regulation section 3721, subdivisions (a) (7), by and through his violation of Code Section 11328 in that Respondent failed to cooperate with the investigation and provide a copy of the appraisal report and associated workfile for the property located at 1343 Citrus Avenue, Los Angeles, California when requested to do so. Respondent repeatedly and continuously failed to cooperate with Complainant during its investigation, even after Complainant identified Respondent's correct address through Department of Motor Vehicles records and sent two demand letters via certified mail to this address, which were subsequently signed for and accepted by Respondent. Complainant also unable to contact Respondent by telephone, after numerous attempts in which no one answered the phone and no answering machine was available to leave a message.

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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 the right of Ramon A. Avalos to renew Residential Appraiser License Number AT042059.

2 Ordering Ramon A. Avalos 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 Ramon A. Avalos to pay the Director of the Office of Real Estate Appraisers a fine pursuant to section 11316, subdivision (a); and

4 Taking such other and further action as deemed necessary and proper.

Original Signed

DATED: February 15, 2011

ELIZABETH SEATERS

Supervising Property Appraiser Investigator

Office of Real Estate Appraisers

State of California

Complainant