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

In the Matter of the First Amended Accusation Against: MICHAEL F. FORD, Real Estate Appraiser License No. AG002512, Respondent.	Case No. C20150220-01 OAH No. 2016110246
In the Matter of the Accusation Against: GOLDEN STATE APPRAISAL MANAGEMENT COMPANY LLC, Appraisal Management Company Registration No. 1264 Respondent.	Case No. A20150220-02 OAH No. 2017011199

DECISION AFTER REJECTION OF PROPOSED DECISION

Administrative Law Judge Jennifer M. Russell, Office of Administrative Hearings, State of California, heard these consolidated matters in Los Angeles, California on May 8, 9, 10, 11, and 12, 2017.

Morgan Malek, Deputy Attorney General, represented complainant Elizabeth Seaters, Chief of Enforcement of the Bureau of Real Estate Appraisers (BREA),[1] Department of Consumer Affairs. Zachary D. Schorr and Stephanie C. Goldstein, Attorneys at Law, represented respondents Michael F. Ford (Ford) and Golden State Appraisal Management Company LLC (Golden State), respectively.

Oral and documentary evidence were provided. Pursuant to a May 15, 2017 Post-Hearing Order, the record remained open for the parties' submission of written closing arguments. Complainant's Closing Argument was filed on June 2, 2017, and marked for identification as Exhibit V.

Respondent's Closing Argument Brief was filed on June 2, 2017, and marked for identification as Exhibit 82. Complainant's Rebuttal Argument was filed on June 14, 2017, and marked for identification as Exhibit W.

[1] BREA's predecessor is the Office of Real Estate Appraisal (OREA).

The matters were submitted for decision on June 14, 2017.

The Administrative Law Judge issued her Amended Proposed Decision on July 17, 2017.[2] After due consideration thereof, the Chief, on behalf of the BREA, declined to adopt said proposed decision and thereafter on October 2, 2017, issued an Order of Rejection of the Proposed Decision and set the date for submission of written argument by the parties. The deadline for submission of written arguments expired on November 27, 2017.

Written argument having been received from both the Complainant and Respondents, and the time for filing written argument in this matter having expired, and the entire record, including the transcript of said hearing having been read and considered, the Chief pursuant to Section 11517 of the Government Code hereby makes the following decision:

FACTUAL FINDINGS

1. Complainant made the First Amended Accusation against Ford and the Accusation against Golden State (collectively the Accusation) while acting in an official capacity. The Accusation and other required jurisdictional documents were served on Respondents. Respondents timely filed a notice of defense and request for hearing.

2. On January 23, 1993, OREA issued Certified General Appraiser License number AG002512 to Michael F. Ford. The license, which was in full force and effect at all times relevant to the allegations in the First Amended Accusation, expired on April 26, 2017.[3] On May 26, 2009, the licensee was disciplined for a violation of California Code of Regulations, title 10, section 3724.

3a. On May 28, 2009, OREA issued Appraisal Management Company Registration number 1264 to Golden State Appraisal Management Company LLC. The registration, which was in full force and effect at all times relevant to the allegations in the Accusation, expires July 7, 2018, unless renewed. The registration has no history of prior discipline.

3b. Aren Kalustian (Kalustian) is a BREA-certified appraiser, who is Golden State's general manager.

4. The Appraisal Foundation (TAF) was authorized by Congress to develop appraisal standards and appraiser qualifications in order to promote and preserve the public trust in the professional appraisal practice. In response, TAF developed the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP constitutes the benchmark for real property appraisals in the United States. TAF promulgates and updates best appraisal practices, as codified in USPAP, in two-year cycles that commence on January 1 of even-numbered years. TAF is overseen by the Appraisal Subcommittee (ASC), a subcommittee of the Federal Financial Institutions Examination Council. While the federal government does not regulate appraiser

---

[2] The Administrative Law Judge amended her July 14, 2017, Proposed Decision in order to correct minor clerical errors contained in the decision.

[3] The expiration of the license does not preclude OREA from instituting this disciplinary matter. (See Bus. & Prof. Code, § 11315.3.)

qualifications or practices directly, it does so indirectly. If the ASC finds that a state's appraiser certification and/or regulation program is inadequate, all appraisers in that state become ineligible to do appraisals for federally-chartered banks.

5. California licensing and certification laws do not require all real estate appraisers to become licensed. However, existing laws require that appraisers who choose to become licensed appraisers fall under the authority of BREA, and thus require those appraisers to follow a set of standards and rules governing their practice. (Bus. & Prof. Code §§ 11313, 11319; Cal. Code Regs., tit 10, § 3701.) USPAP mandates that licensed appraisers adhere to ethical and competency standards, observe recognized appraisal methods and techniques, and follow clear appraisal reporting requirements. Given BREA's charge of public protection, enforcement of these rules and standards is one of the Bureau's highest priorities. (Bus. & Prof. Code § 11310.1.)

6. Unit 203 at 175 Bluxome Street, San Francisco, California 94107 is a two-bedroom, two-bathroom, 1,070 square foot, two story condominium unit (the subject property). The subject property is one of 102 units in a condominium complex located in the Mission Bay area of the SoMa District of San Francisco. Its legal description is Block 3785, Lot 66, and its Assessor's Parcel number is 3785-066. In early 2015, a tenant occupied the subject property. The owner sought to refinance the mortgage on the subject property through HomeBridge.

7. On behalf of HomeBridge, Omni Fund Inc. (Omni Fund), which is a mortgage broker, requested an appraisal from Golden State to determine the subject property's market value. On January 28, 2015, Golden State in turn assigned the appraisal request to and retained Jessica M. Mericle (Mericle), a BREA-licensed appraiser, to conduct an appraisal of the subject property.

8. Mericle scheduled a field inspection of the subject property, and that inspection occurred on February 4, 2015. She prepared an Individual Condominium Unit Appraisal Report, which is dated February 5, 2015 (February 5, 2015 Appraisal Report). The February 5, 2015 Appraisal Report states that the intended use of the appraisal is to evaluate the subject property for a mortgage finance transaction and identifies the intended user of the appraisal as HomeBridge. The February 5, 2015 Appraisal Report incorrectly identifies the subject property, which is Unit 203, as Unit 107. It incorrectly calculates the square footage of the subject property. It includes a sketch that inaccurately represents the configuration of the subject property. It incorrectly represents the spaces/units ratio of the condominium complex within which the subject property is situated as 1:0.6 when the correct spaces/units ratio is 0.6:1. Some fields for flood zone map information were not properly filled out. (See Exh. H.)

9. The February 5, 2015 Appraisal Report indicates that Mericle employed a sales comparison approach for the appraisal. The sales comparison approach uses data on sales of comparable properties. The comparison process includes adjustments for improvement and characteristic differences. Mericle writes:

> All comparables utilized were in the subject's neighborhood of SoMa and neighboring comparable market areas ....

> The appraiser has diligently searched for comparable sales which were of similar size, location, room count, age, condition, amenities, condition with overall utility, design, marketability, and appeal which have sold within the past 90 days. Due to the subject's characteristics and lack of similar comps in the area, it was necessary to select comps from beyond three months of appraisal and beyond one mile from the subject, in order to determine its fair market value. This search expanded into neighboring districts which have similar characteristics and more similar comparable volume. All comparables selected are good indicators of fair market value and have been given equal consideration. They were the best available at the time of appraisal.
>
> Adjustments were calculated at $100.00 per sq. ft. for GLA and applied for a difference of 100 sq. ft. or greater, $50,000 per bedroom and bathroom, $30,000 per 0.5 bath, $20,000 for a private patio, and $10,000 for a balcony. All quality of construction adjustments are quantified with $/Sq. Ft. approximations. Condition adjustments are lump sum or percentage adjustments based on realtor interviews, inspection, and appraiser opinion.

(Exh. 8 at p. GS0015.)

10. The February 5, 2015 Appraisal Report lists six comparable properties, to which the following adjusted sales prices were assigned as a result of the comparison and adjustment process:

Comparable Sale# 1 (175 Bluxome St., #309): $788,000

Comparable Sale #2 (500 Bryant St., #101): $835,500

Comparable Sale #3 (175 Bluxome St., #232): $779,500

Comparable Sale #4 (175 Bluxome St., #320): $771,500

Comparable Sale #5 (18 Norfolk St., #1 8): $835,000

Comparable Sale #6 (6014th St., #16): $878,500

(Exh. 8 at pp. GS0006 and GS0010.)

11a. In the February 5, 2015 Appraisal Report, Mericle states an opinion of value of $780,000 for the subject property. Mericle signed the Appraiser's Certification giving assurance of her neutrality and responsibility and that the appraisal was performed in conformance with the requirements of USPAP. In addition, Mericle certified the following:

> No employee, director, officer, or agent of the Seller, or any other third party acting as joint venture partner, independent contractor, appraisal company, appraisal management company, or partner on behalf of the Seller, has influenced or attempted to influence the development, reporting, result, or review of this appraisal through coercion, extortion,

collusion, compensation, inducement, intimidation, bribery, or in any manner per AIR guidelines. (Exh. 8 at p. 0058.)

11b. At the administrative hearing, Mericle testified that she submitted the self-certification with the original appraisal, and Revised Appraisal Reports. Mericle further testified that the self-certification's boilerplate language, "should have been removed," and that she felt compelled to include the certification "because every single [Appraisal Management Company] requires it to be in there."

11c. Mericle did not sign the Supervisory Appraiser's Certification, but she nonetheless asserts in the February 5, 2015 Appraisal Report that she received appraisal assistance:

> Mitchell Maher provided significant real property appraisal assistance in the identification of the appraisal problem. He was responsible for producing a significant portion of this report, including data collection, inspection of the subject property, analysis of the data as well as assisting, determining and concluding the final value opinion of value working with the supervisor, Jessica Mericle. The appraiser/supervisor was responsible for inspection of the subject property and all comparables, the final adjustment process, final value conclusion and verifying data, observations and comments.

(Exh. 8 at p. GS0016.)

12. Mitchell Maher's testimony at the administrative hearing contradicted the assertion that he was responsible for a significant portion of the February 5, 2015 Appraisal Report. Maher testified that he did not appraise the subject property and that he knew Mericle did so because he drove her in a ZIP car to the subject property's location. At the administrative hearing Mericle claimed she spent 15 to 30 minutes inspecting the subject property. Eight months after completion of her appraisal of the subject property, during the course of BREA's investigation, Mericle represented to investigators that she inspected the subject property. Even assuming the truthfulness of that representation, Mericle's role of inspecting the subject property was not definitively known in February 2015.

13. Mericle electronically transmitted the February 5, 2015 Appraisal Report to Golden State. Golden State thereafter transmitted the February 5, 2015 Appraisal Report to Omni Fund. Omni Fund called Golden State to raise and address several concerns in connection with the February 5, 20015 Appraisal Report. With respect to Comparison Sale #1, Omni Fund contested a reported "11/13" date of sale as incorrect. (Exh. H at p. 0015.) According to the February 5, 2015 Appraisal Report, a $20,000 value assigned to a patio was deducted from Comparison Sale #1's sale price in order to make it more like the subject property. (Exh. 8 at p. GS0006.) Omni Fund requested "documented support on 20k patio adjustment." (See Exh. H at p. 0015.) With respect to Comparison Sale #3, Omni Fund sought consideration of reports from DQNEWS.com that "property values have increased 18.84% from December of 2013 to December of 2014." (*Ibid.*) Omni Fund communicated to Golden State the owners' opinion that the subject property was valued at approximately $800,000 and offered additional comparables for review. The additional comparables provided for review were 175 Bluxome St., #309; 175 Bluxome St., #216; 50 Lucerne St., #9; and 50 Lucerne St., #11. (*Ibid.*)

14. Golden State filed a compliance certificate with Omni Fund on February 5, 2015. The certificate was addressed to Home Bridge Financial Services, and certified in relevant part the following:

- The appraiser was not presented with an anticipated, estimated, encouraged desired value for the subject property or a suggested or target amount to be loaned to the borrower;

- The appraiser was not petitioned to provide an estimated value or comparable sale at any time foregoing to the appraiser's conclusion of an appraisal report;

- There was not an endeavor by Golden State Appraisal Management Co., LLC to invalidate the appraiser's sovereignty, objectivity, or impartiality; and

- There was not an endeavor by Golden State Appraisal Management Co., LLC to pressure the progress, reporting, conclusion, or review of the appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or any other endeavor.

(Exh. K at p. 0148.)

15a. On February 6, 2015, Omni Fund requested a reconsideration of the appraisal, and Golden State electronically uploaded that request to Mericle. (See Exh. H at p. 0015.) Golden State apprised Mericle that "the client just submitted a reconsideration of value request. Can you please review and let us know if you can help the client. URGENT." (Exh. H at p. 0087.) In addition, Golden State informed Mericle that "[p]er owner's opinion of value is at $800,000 [plus]. Appraisers comparables well support $800,000," and asked Mericle to "rush" Omni's reconsideration request because the "lock is expiring this coming Thursday." (Exh. H at p. 0029.)

15b. On February 6, 2015, Mericle produced a Supplemental Addendum to the February 5, 2015 Appraisal Report (Revised Appraisal Report). In the Revised Appraisal Report, Mericle addresses the additional comparables provided to her for analysis as follows:

> 175 Bluxome St, #309: This sale is utilized in the appraisal report as comparable #1, and the most recent comparable sale within the subject's complex. This sale has been corrected to reflect its sale date of 11/14.
>
> 175 Bluxome St #216: This is a dated sale, closed on 5/13/2014 and reflects the summer market which features greater activity, higher liquidity, and significantly higher list to sale ratios than seen in the market at the time of physical inspection or in the past 6 months from the date of physical. This sale is a model match that closed for $780,000, which is the estimated market value in this appraisal report. The market has shown that values have remained stable for the subject property and its specific, particular market of 2 bedroom 2 bathroom loft condominiums in this neighborhood over the past 6 months, and a sale from the height of the summer market, outside of 6 months from the time of physical inspection is not considered relevant or the best indicator of current market value.

> 50 Lucerne St #9 and #11 are both top floor units in a boutique 12 unit complex featuring a roof deck with city views, and are considered superior to the subject due to their top floor status, the privacy and exclusivity of a boutique complex (the subject's complex features 102 units), as well as the complex's roof deck amenity with views. Additionally, these residences are both 1 bedroom lofts, representing a different market. Furthermore, #9 sold on 05/30/2014 for $875,000 and #11 sold on 12/30/2014 for $850,000. Both are model match units to each other, and this sale price difference directly demonstrates the difference between a property listed in the summer busy season versus a property listed in the winter season of less activity, which is why the dated sales of 50 Lucerne St #9 and 175 Bluxome St #216 are not considered the best indicators of current market value.
>
> Final and most supportable estimate of value remains $780,000.

(Exh. 14 at p. GS0039.)

15c. Mericle made no modifications to the Certification accompanying the February 5, 2015, Appraisal Report when she restated her opinion of value for the subject property in her February 6, 2015, Revised Appraisal Report. However, the evidence shows that Golden State, through Kalustian's communication of the owner's $800,000 opinion of value, did provide Mericle with an anticipated, estimated, encouraged, or desired valuation of the subject property

16. On February 7, 2015, Mericle's Revised Appraisal Report was transmitted to Omni Fund. After receipt of Mericle's Revised Appraisal Report, Omni Fund called Golden State and again raised several concerns, including whether the subject property was correctly identified; whether Mericle inspected the subject property because someone reported that a man conducted the inspection; whether the date of sale for Comparable Sale #1 continued to be incorrectly reported; and whether there was an appropriate accounting of the legal and locational features of the subject property.

17. Kalustian explained, "In the call the broker told me there were plenty of comps in the building and the appraiser's adjustments didn't make sense. He said it would have been more appropriate to use internal comps." Kalustian also noticed "some issues in regards to the flood zone map information. The field didn't have any characters; just dashes. This is not the proper way to fill this out. There should be text." (See Exh. 8 at p. 8-2.) On February 8, 2015, Kalustian requested Mericle to make several revisions, which included correctly identifying the subject property's unit number and correctly indicating that the date of sale for Comparable Sale #1 "is not 11/14 but 08/14." Kalustian's request additionally included the following information regarding flood zone:

> Flood Zone N -
> Description: Area Not Mapped-An area that is located within a community or county that is not mapped on any published FIRM (Usually a community not participating in NFIP). Internal TFHC designation.

(Exh. H at p. 00016.)

18. Kalustian testified that he was trying to figure out an appropriate way to relay information from the broker to Mericle. Prior to Kalustian's February 8, 2015, request to Mericle, Kalustian called Ford and initiated a discussion in which he posed a hypothetical asking Ford whether it was better to use comparable sales from within the same condominium complex or to go outside the complex when making adjustments. According to Kalustian, "we discussed how to forward information to an appraiser so that they don't feel pressure-what is the appropriate way?"

19a. In response to Ford's request for property data, Kalustian emailed[4] to Ford the following information, which includes other comparable sales from within the subject property's condominium complex provided by Omni Fund:

> 1. The most recent sale in complex is 175 BLUXOME ST 132 sold for 751,000 on 11/03/2014, it is smaller than subject and 1 bedroom going with appraiser adjustment this would adjust 14K for living area and 50K for Bedroom adjustment which equals $815,000. Again this is using appraiser own logic and adjustments.
>
> 2. Again following the appraiser logic 175 BLUXOME ST 232 sold for 710,000 on 10/17/2014, Bedroom adjustment 50K & Bathroom adjustment 50K, plus a 20K for living area equals 830,000.
>
> 3. The appraiser says that the comps sold in summer are much better but this is also wrong.
>
> 2 Bedrooms
> 175 BLUXOME ST 107 sold on 04/2014 - $720,000
> 175 BLUXOME ST 120 sold on 05/2014 - $730,000
> 175 BLUXOME ST 216 sold on 05/2014 - $780,000
> 175 BLUXOME ST 309 sold on 08/2014 - $808,000
> This is an increasing trend - over 4 months by 12%
>
> 1 Bedroom sales - Almost 5% increase
> 175 BLUXOME ST 121 Sold on 07/2014 - $720,000
> 175 BLUXOME ST 132 Sold on 11/2014 - $751,000
>
> **Owners estimate is 795 to 800K**
> Please reconsider
> (See Exh. I at pp. 0344 - 0345.)

19b. After Ford received from Kalustian the email containing the information set forth in Factual Finding 19a, Ford annotated the email with calculations of square footage, price per square foot, and adjustments for the floor location of units. Ford's annotations appear as italicized text:

---

[4] The contents of documented communications are set forth without edits for spelling, grammar, and punctuation, unless otherwise indicated.

1. The most recent sale in complex is 175 Bluxome ST 132 sold for 751,000 on 11/03/2014, it is smaller than subject and *[Mike Ford] only has 932 sf.* 1 bedroom going with appraiser adjustment this would adjust+-14K for living area and 50K for Bedroom adjustment which equals $815,000. Again this is using appraiser own logic and adjustments.

2. Again following the appraiser logic 175 BLUXOME ST 232 sold for 710,000on 10/17/2014 *[Mike Ford]* 1 Bedroom *[Mike Ford]* 874 sf Adjustment 50K & Bathroom adjustment 50K, plus a 20K for living area equals 830,000 *[Mike Ford] OR 196 sf x $375 = $73,500 say $74k+710+$874+time condition IF applicable*

3. The appraiser says that the comps sold in summer are much better but this is also wrong.

2 Bedrooms
175 BLUXOME ST 107 sold on 04/2014-$720,000 *[Mike Ford]* 1,066 sf 2br 1.5 *ba (time add 50K to 60K = 770 to 780* ±
175 BLUXOME ST 120 sold on 05/2014-$730,000 [Mike Ford] *962 sf 1 & den 1.5 ba (no mls info) + 43k size at $375/sf=773+ time cb up to 830*±
175 BLUXOME ST 216 sold on 05/2014 - $780,000 *[Mike Ford] 1072 sf no size adj. not sure about time - possible 3% to 4%± say 3r% +$830k*
175 BLUXOME ST 309 sold on 08/2014 - $808,000 *[Mike Ford] 1,051 sf MAYBE size at 19sf x 375 =$7,125 or $7,000 (les than 1% not necessarily sustainable-but possible = $815k plus time (2%± ?) = $831k MINUS FLOOR LOCATION/view? 5% or -40K = $791K*
This is an increasing trend - over 4 months by 12%

1 Bedroom sales - Almost 5% increase
175 BLUXOME ST 121 Sold on 07/2014 - $720,000 *[Mike Ford] 962 sf 2 br 1 1/2 ba 98sf @375 = $757k PLUS floor (35k to 40K) say 40 consistent with #309 = $797k plus time*
175 BLUXOME ST 132 Sold on 11/2014 - $751,000 *[Mike Ford] 932 sf 138 Sf @ 375 = 52K + floor location 40K = $834k± Maybe floor location should be only 35 K (rough 5%)*
[Mike Ford]
±any other adjustments for beneficial or negative corner locations, interior units, views, etc

[Mike Ford] subject is 1,070 sf 4rms 2br 2ba

Owners estimate is 795 to $800K
Please reconsider
(Exh. I at pp. 0344-0345.)

20. Kalustian explained at the administrative hearing that after his call with Ford, he "went back to Appraisal Scope[[5]] and noted a [second] reconsideration request was pending for the property .... It came from the broker." Kalustian drafted and electronically uploaded a second reconsideration request to Mericle. Several comments regarding the comparable sales accompanied the second reconsideration request. 1. The most recent sale in complex is 175 BLUXOME ST 132 sold for 751.000 on 11/03/2014, it is smaller than subject and only has 932 sf. 1 bedroom going with appraiser adjustment which equals $815,000. Again this is using appraiser own logic and adjustments. 2. Again following the appraiser logic 175 BLUXOME ST 232 sold for 710,000 on 10/17/204 only has 874 sf. Adjustment 50K & Bathroom adjustment 50K, plus a _20K for living area equals 830,000 3. The appraiser says that the comps sold in summer are much better but this is also wrong. 2 Bedroom 175 BLUXOME ST 107 sold on 04/2014 - $720,000[Mike Ford] 1,066 sf 175 BLUXOME ST 120 sold on 05/2014 - $780,000[Mike Ford] 962 sf 1 & den 1.5 ba (no mls info) 175 BLUXOME ST 2016 sold on 05/2014 - $780,000[Mike Ford] 1072 st 175 BLUXOME ST 309 sold on 08/2014 - $808,000[Mike Ford] 1,051 sf This is an increasing trend – over 4 months by 12% 1 Bedroom sales – Almost 5% increase 175 BLUXOME ST 132 sold on 11/2014 - $751,000 Owners estimate $800K. (Exh. H at p. 0027).

21a. At the administrative hearing, Kalustian testified that he intended to include the un-annotated information set forth in Factual Finding 19a in the second reconsideration request to Mericle, but he instead inadvertently included the annotated information set forth in Factual Finding 19b. At the hearing, Ford testified that Kalustian provided the annotated information to Mericle without his knowledge or his consent, and further described Mericle's concerns regarding the disclosure of the annotated email as "legitimate." Even assuming the truthfulness of Kalustian's testimony regarding the inadvertent disclosure of the annotated information, the second request for reconsideration similarly notified Mericle that the "owner's estimate [was] $800,000." (Factual Finding 20.)

21b. Ford testified at the administrative hearing that "it is a proper function of an appraisal management company to communicate the objections of outside parties" to the original appraiser. In doing so, Ford acknowledged that such parties "are looking to promote their perspective of value."

22a. On February 9, 2015, Mericle produced a Supplemental Addendum to the February 5, 2015 Appraisal Report (Second Revised Appraisal Report), in which the subject property is now correctly identified as "Unit 203." In the Second Revised Appraisal Report, Mericle comments on matters regarding patio adjustments, recent sales, and market values as follows:

> Patio adjustments in the subject's market are demonstrated by com parables#1 and #4 in this report. From the subject's market patio difference between comparable properties range from 42,000 to $50,000 in market values depending on the complex and size of the market. $20,000 for a patio adjustment is typical for the market and considered a minimal adjustment.

[5] Appraisal Scope is an internet platform through which, among other things, mortgage lenders and appraisal management companies transmit their communications during the valuation process.

> Further information provided to the appraiser from the client is not considered relevant. The subject property is a 2 bedroom property, and only 2 bedroom comparable sales can best demonstrate the subject's current market. See the following attachment which shows that in the past year there are 6 confirmed 2 bedroom sales, which range from $700,000 to $808,000, with all sales except for one closed at $780,000 or below. The low end of the range is 171 Bluxome St #121, which closed for $700,000 on 07/24/2014, was listed on the market for 5 days, and features no photographs on MLS. The sale appears to represent the low end of the range and does not appear a relevant arms-length transaction or appropriate comparable based on the below average DOM and lack of interior based. After removing this sale, the remaining 2 bedroom closed sales in the past year range from $710,000 to $808,000. The only sale above $780,000 is comparable #1 in this report, at the high end of the range, which is also the only closed sale in this spread featuring a patio. This sale (comparable #1) is neither the most recently closed sale in the complex, nor is it the most similar out of these available sales listed below, to the subject property. Using this sale as the sole indicator of market value when all remaining data supports a value below $800,000 is not supported by the market, and would be considered irresponsible by this appraiser. The subject property is an unimproved residence with no marketable views and no exterior deeded areas or other special features. There is not relevant evidence in the subject's complex or market at large to support a higher market value for a similar sized 2 bedroom loft condominium with the subject's characteristics at the time of this review. Final and most supportable estimate of value remains $780,000.

(Exh. 19.)

22b. Mericle made no modifications to the Certification accompanying the February 5, 2015, Appraisal Report when she restated her opinion of value for the subject property in her February 9, 2015, Second Revised Appraisal Report. However, the evidence shows that Golden State, through Kalustian's communication of the owner's $800,000 opinion of value and suggested adjustments to comparables, did provide Mericle with an anticipated, estimated, encouraged, or desired valuation of the subject property.

23. On February 9, 2015, Golden State caused the transmittal of the Second Revised Appraisal Report to Omni Fund. Kalustian testified, "The broker called again; obviously very upset. It didn't make sense to them. They said the CU score was high, you have to do something. 'What are you going to do to make this a viable report?'" Kalustian asked for time to determine what he was supposed to do.

24. On February 9, 2015, Kalustian ordered a desk appraisal review from Ford, of Mericle's February 5, 2015 Appraisal Report. (Exh. 20)

25a. Ford produced an Appraisal Review Report, dated February 10, 2015, in which Golden State is named as "Client," and its articulated intended purpose is to accomplish the following:

> Determine if the results of the work under review are credible for the intended user's use.
>
> Evaluate compliance with relevant USPAP requirements, client requirements, or applicable regulators.

(Exh. 27 at p. GS0072.)

25b. Ford's Appraisal Review Report additionally identifies its intended use and limitations in two instances. The first instance is as follows:

> The intended use of this desk top appraisal review report is for quality control purposes. A 3.9+- CU Risk Score had resulted. It is necessary to determine if further information is appropriately required from the appraiser, or whether any possible potential areas of concern can be resolved through the review process. In the event there are areas of concern which relate to the steps the appraiser did or did not take; or adjustments made, or not made it is necessary that the original appraiser be contacted and given adequate opportunity to respond, clarify, refute or to modify the comments and remarks of the appraisal under review. An administrative desk review does not intentionally comment on the character, skill or ... quality of another appraiser's appraisal. It is limited to identifying areas of potential concern and whether the issues identified have been adequately addressed, explained or supported in the appraisal report under review.

(Exh. 27 at p. GS0072.)

25c. Mericle's original appraisal report incorrectly identified the property address as 175 Bluxome Street, Unit #107. (See Factual Finding 8.) As a result, a 3.9 CU score was generated on Unit # 107. Ford states that the purpose of his review was the high CU score, which relied upon Mericle's erroneous report with the wrong unit number. The subject property is located at 175 Bluxome Street, Unit # 203. More importantly, the CU score for Unit #203 was 2, which indicated a lower collateral risk, and therefore would have likely rendered Ford's appraisal review report unnecessary.

25d. In a second instance, the intended use and scope of Ford's Appraisal Review Report is stated as follows:

> **Intended Use:** Quality control purposes. Collateral Underwriter Risk Rating research prior to communication with appraiser.
>
> **Scope:** Review property information; ownership interest existing, appraisal performed and appraisal report reviewed. Conduct independent market research with local agents &/or market participants. To the extent feasible, review and verify data reported in the appraisal under review.

(Exh. 27 at p. GS0076.)

25e. Golden State's existing policies and procedures regarding Quality Assurance specify that desk reviews are traditionally considered "administrative rather than technical reviews." According to Golden State, the purpose of an administrative review is as follows:

> This is not a review in which value or report credibility is ascertained; or in which an opinion or opinions as to the reasonableness or propriety of adjustments made are opined. Rather, it is a scope of work compliance check in order to assure that common clerical type errors are caught and corrected prior to reports being submitted through the system. Items checked are clerical in nature: subject property address or other description sufficient to identify the property; appraiser signature, effective date of appraisal, date of report, insure a value was provided, that client specific requirements for included items are met, and (when used) issues identified in FNMA Collateral Underwriter have been, or are being addressed. This is not a check to determine the adequacy of explanation(s), but only to insure that some form of explanation is provided. This is an opportunity in which appraiser(s) may correct minor clerical omissions before reports become subject to peer or technical reviews.

(Exh. 81 at p. GS0374-GS0375.)

Further, Golden State's policy concerning a "technical review" provides in pertinent part that:

> This is any review performed under Standards Rule Three (SR3) in accordance with the Uniform Standards of Professional Appraisal Practices in effect on the date of the review; or for the effective date of the appraisal being reviewed.
>
> <u>If a differing opinion of value from the one reported in the appraisal under review is concluded, compliance with Standards Rules 1 & 2 are required.</u> (*Ibid.*)

25e. Ford states in his Appraisal Review Report that he was not providing his own opinion of value for the property in question. (Exh. 27.) Additionally, Ford characterizes his review as a "desk top" review, and "administrative" in nature.

26. In Ford's URAR Desk Review, under the heading of "Other Adjustments," Ford notes multiple instances where Mericle's adjustments were "misleading," or done "without actually using paired sales," or made without specifying how a cited "abstraction" was applicable, or was accompanied with a "rote statement" or "contradictory statement." In the Appraisal Review Report, Ford illustrates how an application of certain adjustments to the nine potential comparable sales from the subject complex "would more than likely have a substantial impact on value." At the administrative hearing, Ford explained that he was "looking for anomaly." He testified that an adjustment "has to be a market perceived difference; not a physical difference .... Adjustments based on an appraiser's experience are not considered appropriate."

> <u>Applying more market oriented adjustments</u> as suggested by abstraction for GLA; pairing ..., size relationship adjusting for balconies and only adjusting rooms or baths as can be definitively demonstrated or supported by documentable market

data would more than likely have a substantial impact on value. The potential alternate nine (9) sales in the complex also prove pairing or near pairings for floor location adjustment, though it could range from $20,000 to $50,000; Results if applied and extended are assumed similar to the following:

Unit 103 946 SF COE 06/24/2014 $640.000 **Size Diff is 124 sf** @ 360+$45,000 + time/mkt increase 7 months at 1% each= $45,000 for an indication of $730,000 (plus or minus any adjustments for balconies or parking; floor location + $20K to $50K). **Probable $750K to $780K**

Unit 320 844 SF COE 08/29/2014 $749,000 Size 9sn226 sf@ #360 = $81,000 + time @ 1% x 5 = 5% or +$37,000. Total indicated is $749,000 + $ 118,000 = $867,000 (+-parking; minus floor premium -50K = **$817,000**).

Unit 121 962 SF COE 07/24/2014 $700,000 Size 108 sf @$360 = +$39,000 and 6 mos at 1% or 6% is +$42,000 = $781,000 plus; us floor location of $20K to $50K, +-parking ($80K potential). +-balconies if applicable.
Indicated probable $801,000.

Unit 132 933 SF COE 11/03/2014 $751,000 Size 137 sf @ $360 = +$49,000. Time 3 mos or 3% = $23,000 + Floor location $20k to $50K = $843,000 to $873,000 (+-parking, bales); possible short term time change being unrecognized (-$23K): **$820K to $850K.**

Unit 309 1,051 SF COE 08/13/2014 $808,000 Size 19 SF @ $360 = $7,000 (arguable at less than 1% of SP) + time 5% =$40,000; Minus floor premium -$50,000 = **$805,000**. (+-other mls variables).

Unit 101 780 SF COE 04/25/2014 $628,000 SIZE 290 SF @ $360 = $104,000; +time of 9% = $57,000; Plus floor +$20,000 (CB as high as $50k) = **Indicated $809K to $839K** +balcs, parking.

Unit 107 1,066 SF COE 04/30/2014 $720,000 Size 4 SF@ $360 = $1,000 (negligible and likely not recognized); + time 8% = $58,000; plus floor 20K to $50K = **$798,000 to $828,000**. (+-unknowns like balcony and or parking).

Unit 216 1,072SF COE 05/13/2014 $780,000 Size 2 SF= na; TIME = 8% OR $62,000; no floor adjustment. Indicated is **$842,000** +-balcony or parking if applicable.

Unit 120 962 SF COE 05/06/2016 $730,000 Size is 108 SF @ 360 = +$39,000; plus time of 11% or $80,000; plus floor of $20K to $50K = **$869,000 to $899,000** (+-balcony, parking or other mls or market participant identified differences).

> The exact adjustments amounts may vary slightly depending normal variance in interpretation of the market data, but overall the above sales and more market oriented adjustments appear to result in a significantly higher indicated market value. Even using the appraisals own non market, rote adjustments consistently applied to each of the above suggests a higher range is possible.

(Exh. 27 at pp. GS0082 - GS0083.)

27a. Despite Ford's characterization and testimony to the contrary, Ford's Appraisal Review Report was not limited to an administrative review. In fact, the appraisal review included Ford developing an opinion about the quality of Mericle's appraisal, and continued into developing his own opinion of value regarding the subject property. Ford's desk review is inconsistent with Golden State's administrative review policy, which limits the purpose of such reviews to checking for "common clerical type errors." (See Factual Finding 25(d).) As noted above, Ford's report signaled that, "overall the above sales and more market oriented adjustments appear to result in a significantly higher indicated market value. Even using the appraisals [sic] own non-market, rote adjustments consistently applied to each of the above suggests a higher range is probable." (Exh. H at p. 0040.) Specifically, Ford introduced new comparable data, made comparisons and calculated adjustments to that data, and developed value ranges indicated by those adjustments. Moreover, Ford advocated a direction in value, which by definition is an appraisal. (See Exh. 69.) Ford, a recognized senior appraiser, failed to adequately describe and verify new market data, failed to demonstrate that he employed accepted methods and techniques in his analysis and produced a report with significant credibility issues.

27b. Ford testified that Kalustian did not share the Submission Summary Report (SSR), with Ford until April 13, 2015. Interestingly, Kalustian was notified on February 8, 2015, by Omni Fund that Mericle's Revised Appraisal Report incorrectly identified the unit number for the subject property. (See Factual Finding 17.) However, despite his prior knowledge regarding the incorrect address, Kalustian allowed almost two years to lapse before seeking a new SSR on Mericle's revised report on January 4, 2017. (Exh. U.)

28. On February 11, 2015, Golden State ordered a second appraisal from a new appraiser. Notably, Golden State supplied the new appraiser, Ms. Sonboli with copies of Mericle's February 5, 2015 appraisal and Ford's February 10, 2015 desk review prior to Ms. Sonboli's completion of her appraisal report. (Exh. 29 at p. 3.) Respondent's actions of providing Mericle's appraisal and Ford's desk review in advance, raise serious concerns that Golden State had no reservations whatsoever about providing an appraiser with an anticipated, estimated, encouraged, or desired valuation prior to completion of an appraisal.

29. On February 12, 2015, Mericle emailed Kalustian to ask about Golden State's relationship with Ford and Ford's involvement as a review appraiser.

> Hi John-thanks for that. I really appreciate the clarification about payment - it puts my mind at ease.
>
> About the desk review - I wanted to ask, What is Golden State AMC's

relationship with Mike Ford, the review appraiser? Was he paid a standard fee to perform this review? And was he assigned the review thru the AMC's standard rotation based on the appraiser's geographical proximity to the market under review? My data suggests that Mike Ford has appraised for 30 years in Los Angeles exclusively and has no experience or competency with the San Francisco market. Also, the first reconsideration of value notice I received from Golden State (on 2/6, days before the desk review was ordered) quoted Mike Ford extensively as a source for comparable data and market information. The coincidence of Mike Ford then performing the actual desk review on 2/09, somewhat afterward, confused me. Also, in the desk review itself, Appraiser Ford quotes at length from the subject property owner's confidence in a higher value--I've never seen this kind of language in an objective and impartial appraisal report before and wondered if Golden State or Appraiser Ford could comment on it. Your assistance and clarification in these matters would be a great help--thank you in advance--

(Exh. 31.)

30. Kalustian forwarded Mericle's February 12, 2015 email to Ford, and Ford annotated the email with his response. On February 13, 2015, Kalustian forwarded the annotated email with Ford's response to Mericle. The annotated email is set forth below. Ford's response appears as italicized text.

Hi John-thanks for that. I really appreciate the clarification about payment-it puts my mind at ease.

About the desk review-I wanted to ask, What is Golden State AMC's relationship with Mike Ford, the review appraiser?

I have been an on call Senior Staff Review Appraiser & Consultant with Golden State AMC essentially since their inception. Equivalent to an in house desk reviewer for what it's worth.

My involvement in this instance came about as an effort to comply to the (new) requirements and limitations imposed by FNMAs CU. It would have been much easier if Aren could have simply told you that you had a poor CU score ("hard-stop bad" as I am told); which is what triggered his prior research into alternate comparable sales

THAT is not allowed. Additionally coming on top or coincident with the owners value dispute recorded in YOUR rebuttal both he and I thought it could be misconstrued as undue pressure to hit a value, or change a report in a specific direction.

That was NOT the intent. YOUR appraisal could not be processed (read that as accepted) by the lender without a "clean SSR" A clean SSR is not possible without addressing the CU items that he couldn't communicate to you absent

"some level of human intervention." The desk review comprised that human intervention and analysis.

He and I discussed it at length.

NO appraiser would likely accept or respond to a non-appraiser "review·· or critique.

A technical Field Review appraisal could/would potentially have had adverse consequences to you that no one was (at that point suggesting would be necessary or beneficial.)

An administrative review seemed to provide the best solution all around. It identified IF the appraisal contained information/data/camps/adjustments that COULD materially have resulted in the bad CU score.

As a purely administrative review there was no burden on anyone to send it to the lender; or to the state BREA. The ONLY intent was to communicate the CU score so you had a chance to do something about it IF YOU CHOUSE TO DO SO. Bear in mind I had NOT seen any "suggested" CU camps at all at this point-nor have I to this minute. I'm not sure CU developed them. The ONLY comparables I saw other than the ones you used are the ones YOU addressed via rebuttal; that GSAMC suggested, and that I developed on my own accord. Of course they overlap.

AFTER I spoke with two local area agents (to gain the local "competency" sufficient for a desk review). I researched ALL sales in the subject complex for the prior year. THAT is how I developed MY potential alternate cumparables. I simply looked at ALL of them. Obviously there can be an overlap if you; GSAMC and fuse similar closed sale search parameters. Something you might have considered doing.

I also questioned WHY you would use an out of area boutique project comparable from the other side of the freeway that was not disclosed as siding to the subject complex across the side street? Once used, WHY there was no contrast and comparison of how it fit in with sales in the subject neighborhood. Please keep in mind that one of the agents I contacted LIVES in SoMa and does much of his business there. I was not operating in a blind vacuum limited to my desk. Also, why would you use a one bedroom listing comparable outside the project and they state (in your cover addendum) that one bedroom comparables were irrelevant? Think about that for a moment.

Was he paid a standard fee to perform this review?

My fee or other ongoing compensation arrangementss is frankly, none of your business. What is your business is whether I spent an adequate amount of time in

order to review, verify or refute the findings noted in the appraisal review. Over the course of two days, I spent approximately 14 hours on the review of your and your trainees work. I promise you I was NOT adequately compensated for 14 hours work. Once an assignment is accepted by me the compensation becomes irrelevant. It would have been MUCH easier for me if I had found NO discrepancies and was able to say "Great Appraisal" after an hour or two. That wasn't the case. I also have enough respect for any certified appraiser to make sure of my information before communicating what will not necessarily be welcome information to them. You were apparently incapable of reviewing the review data objectively and responding appropriately (Refute, rebut or concur and fix your work!)

And was he assigned the review thru the AMC's standard rotation based on the appraiser's geographical proximity to the market under review?

Of course I was not assigned on a rotational basis. I'm the on-call senior appraisal expertise for GSAMC. FYI Administrative desk reviews do not require outside appraisers.

My data suggests that Mike Ford has appraised for 30 years in Los Angeles exclusively and has no experience or competency with the San Franciso market.

I am not so sure you really want to take that direction with me. I am a former Senior Review Appraiser with the United States Treasury Department with extensive experience reviewing out of area appraisers work from Alaska to Idaho to New Mexico and of course California. I guarantee you that if it comes down to court or any other agency testimony no agency is going to state that non-residence renders all Treasury Department appraisals invalid.

Additionally in the course of my career, I have been paid inordinate amounts to go as far North as Yuba City, as far East as Tahoe, on down to Imperial Valley less than 25 miles from the Arizona Border and Mexico. I have been retained to overseas appraisal as well as assignments across the United States (why do you think reciprocal licenses exist?) I learned long ago local area competency can be obtained by interviewing local area agents; published data sources, and applying sound real estate appraisal techniques. I have also trained numerous appraisers that now work from San Jose to Seattle. The best AL level trainee I ever had lives in Sacramento; along with another down in Gilroy. I also have extensive personal experience on what it is to live on or near an industrial waterfront, even one that is being gentrified. Which brings up another issue: WHY was no disclosure of the Townsend Street flooding in 2009 made?

I also learned how to read at a very young age and have become moderately proficient at it over 64 years. There is considerable data published about the San

Francisco market as well as the subject complex. I shared some of that information in my review.

Also, the first reconsideration of value notice I received from Golden State (on 2/6, days before the desk review was ordered) quoted Mike Ford extensively as a source for comparable data and market information.

Perhaps you misunderstood what you read. Prior to the review, GSAMC and I discussed (generically) the apparent propriety of $100 GLA adjustments on $700,000+ properties. Additionally, I have been cautioning GSAMC panel appraisers for a very long time about NOT making individual room or bath count adjustments unless they can produce specific support for them. Contrary to rote methodologies being taught by some urban appraisal mills, MOST markets do not readily segregate adjustments for living area as SF versus living area as room types. That's not to say "never" but rather to caution against it unless they can PROVE it. My understanding is that the owner or lenders request for reconsideration was predicated on different comparable sales using YOUR adjustments; not those I discussed with GSAMC. Again, you are reminded that the CU restrictions PROHIBIT just shot gunning new camps to an appraiser without determining first IF those new comps could reasonably have a material impact. And again, THA T was the purpose of the desk review. Not to crucify you or find fault; bill to find possible reasons the CU score was so low and to see if that could be corrected sufficiently to all SSR processing. Period.

The coincidence of Mike Ford then performing the actual desk review on 2/09, somewhat afterward, confused me.

I am not responsible for what confuses you. It is clear that sound real estate appraisal practices and USPAP may also "confuse" you.

Also, in the desk review itself, Appraiser Ford quotes at length from the subject property owner's confidence in a higher value--

You will have to be much more specific than that. I have no recollection of citing anything from an owner whom I have never spoken with.

I just re-read the review report I prepared. I can find NO recitation by me of any claims from the owner of the property about a higher value. *Not one, let alone extensive quotes.*

-I've never seen this kind of language in an objective and impartial appraisal report before and wondered if Golden State or Appraiser Ford could comment on it.

This is purely an ongoing example of exceptionally bad judgment on your part. *The review was completely impartial. You are attempting to discredit and impugn*

the messenger rather than addressing the more substantive issue of the message itself Unlike you, I HAVE seen the kind of arguments used in your email to GSAMC concerning the review. Without exception, they have always been used by an appraiser that has been 'caught' and embarrassed by writing an egregiously deficient appraisal report, and trying desperately to ignore the issues raised by misdirecting attention elsewhere.

I am not in the habit of demeaning, or unfairly criticizing other appraisers work. Frankly the focus of the mentoring that I do provide, is all geared toward helping appraisers stay out of trouble with their work. When I DO perform a review that looks like it's going "negative" I carefully review it and recheck my data to see if there can be another, reasonable alternative. I found none in your work. Further I did not rate the appraisal as unacceptable at all. I indicated that it could be made acceptable by fixing those things that required fixing, or supporting a refutation of them.

Your assistance and clarification in these matters would be a great help--thank you in advance--

Ultimately several options were communicated to you so that you KNEW you were under no obligation to address ANY of the issues. GSAMC also confirms that you called them and that your only stated concern was whether you get paid or not. NOT how to address the concern raised in the review. GSAMC ALWAYS pays appraisers for work performed-even deficient wok. I never heard of a case where an appraiser has not been paid by them.

I will offer one final caution about further sophistry and or attacks on credibility of the messenger of the unsatisfactory CU score. You have an egregiously deficient appraisal report (in my opinion) sitting out there. Since you do not appear to have either the open mind to override your ego; or the mental agility to pick up the negative issues found within the report, let me help you.

I have NO IDEA whether GSAMC will forward a copy of your report and the desk review to BREA or not. As far as I know, they have no reason OR obligation to do so (only they can tell you their obligations in that regard). I'm not required to do it since m review was administrative. Had I performed a field review with similar results, I can assure you a copy of it would already be in the mail to BREA.

IF I were in your shoes. I would either be figuratively 'falling on my sword right now trying to correct my report of every single deficiency noted'; and addressing those areas that you disagree factually and demonstratively-rather than argumentatively.

That's just in case it is sent to BREA by any of the parties involved in handling it to this point. NOT because you agree with me, but because you KNOW you have left your license in extreme jeopardy.

I can reasonably question whether you ever performed paired sales as claimed. Its clear you never performed abstraction as claimed.

I would be more concerned with making sure you 'augmented' your report with the specific support you claimed for your adjustments and analysis of market conditions. GSAMC no Longer needs your report. They sent the property out for reappraisal since they could not get a clean SSR with your appraisal. At a bare minimum I would want my "updated final version" to be the official record on file at GSAMC rather than the deficient report identified. At a minimum the CLIENT REQUIREMENT required YOU to personally inspect on an interior and exterior basis. The occupant of the property reported to GSAMC that only a male appraiser inspected the property inside. THAT part is too late to correct, but you COULD restate levels of inspection by each party so that there is clarity without the appearance of deliberate deception.

We don't have to concur on value at all. Heck the low end of my hypothetical range encompasses your value. I happen to think real market adjustments would be higher, but you are within 5% to 7±%. Value was never the primary issue with your work. ***It was credibility.***

FYI One of the most common reasons a CU score will go higher is if the adjustments are substantially out of range as either dollar amounts or ratios related to land value versus improvement values (so I am told). In dealing with sales prices of $700,000 to $1,200,000 for 750 sf to 1,400 4 relatively never condos its rare to find market value size perceptions of only $100 sf. Another cause why a score could be unacceptably high could be the fact that there were NINE CLOSED SALES in the complex and the appraiser found it necessary to go outside the market area for a different type and project density comparable. CU is census track block based. Going into a different neighborhood may have triggered a higher CU risk component. Neither GSAMC nor I fault an appraiser for a bad CU score (unless a review SHOWS it to be a bad appraisal). Clearly a system that does not permit direct communication of the so called proprietary reasons an appraisal can get a bad score, has flaws.

All we could do was communicate the fact of the bad score and the FACT of numerous report deficiencies.

(Ex. 32.)

31. On February 14, 2015, Mericle wrote BREA complaining that "Golden State AMC and licensed appraiser Michael Ford attempted to influence my final conclusion of value in an unethical fashion for the report [in connection with] 175 Bluxome #203, San Francisco, California, on 2/6/15, 2/8/15, 2/11/15 and 2/13/15." (Exh. 33.)

32. In September 2015, BREA commenced investigations of Ford and Golden State, the purpose of which is articulated as follows in one of two April 14, 2016 Investigative Reports Investigator John W. Schmidt prepared:

> This investigation involves the appraisal review completed by [Ford], not the appraisal report completed by Jessica Mericle, the original appraiser and Complainant. The related case involves Golden State Appraisal Management Company, who coordinated their efforts with [Ford] in a series of communications in an effort to get Complainant to raise her value.

(Exh. 43 at p. 0003.)

33. Investigator Schmidt's findings regarding Ford's conduct, which appear in substantial part as allegations in the First Amended Accusation against Ford,[6] include the following:

> **Sales Comparison Approach**
>
> Respondent processed nine comparables in his appraisal review report into value indications. These properties were only partially described in the report as it included only the unit number sale price, sale date and living area size. The presentation is incomplete as it does not state a data source for the data, nor does it have a verification source. It does not discuss what was verified. Respondent was critical of J.M. on this issue, stating that she did not properly verify concessions for her sales, yet, he does the same thing. Respondent does not state terms of the sales, the quality, condition, or amenities of the properties, all of which are necessary for proper analysis of the data.
>
> **Unprofessional Communication [¶]**
>
> California Business and Professions Code 11345.4 states in part: No person or entity acting in the capacity of an appraisal management company shall improperly influence the development, reporting, result, or review of any appraisal through coercion, extortion, inducement, collusion, bribery, intimidation, compensation, or instruction.

(Exh. 43 at pp.0004-0009.)

34. Mericle admitted that the February 5, 2015 Appraisal Report she prepared contains multiple errors. She admitted that the subject property is incorrectly identified as Unit# 107 and that the picture of the front door included as an attachment to the February 5, 2015 Appraisal Report is not a picture of the subject property's front door. She admitted that the sketch diagram of the subject property included in the February 5, 2015 Appraisal Report is an inaccurate representation of the subject property. She admitted she incorrectly calculated the square footage of the subject property. She admitted that her calculation of the spaces/unit ratio for the condominium complex was wrong. She admitted that language in the February 5, 2015 Appraisal Report representing that Mitchell Maher was responsible for inspection of the subject

[6] See paragraphs 36 through 56 and 58 through 63 of the First Amended Accusation. (Exh A.)

property was false. According to Mericle, that language was accidently transported into the February 5, 2015 Appraisal Report when language from a template was cloned during preparation of the February 5, 2015 Appraisal Report. Mericle attempted to justify the errors in her February 5, 2015 Appraisal Report by testifying, "Everything docs not have to be 100 percent perfect. It is not atypical for there to be minor mistakes."

35a. In response to questioning, Mericle testified that she filed a complaint against the Respondents because "Golden State initiated asking me to change the value to a specific number that they quoted to me and then continued to pressure me to bring the value in at that number." Mericle explained, "I have had people try to intimidate me into raising values before; however, no one has ever done it in writing." (See Factual Findings 15a and 21a.)

35b. Mericle further testified, "I thought the low score was made up because [CU] was so new, and nothing was shown to me. I thought it was a smoke screen and made up." At the administrative hearing, on cross-examination Mericle was shown a copy of *UCDP Submission Summary Report (SSR)*, which contains "Fannie Mae Proprietary Edit Findings" regarding the subject property and the appraisal itself. Mericle testified, "This is the first time I'm seeing this. No one told me it skewed high." The SSR states in pertinent part the following:

> The Subject Address is 175 Bluxome St 107
>
> The reported total bathroom count for the subject is materially different than what has been reported in another appraisal of the same subject.
>
> The appraiser-provided comparables are materially different from the model-selected comparables.
>
> The Collateral Underwriter Risk Score is 3.9 on a scale of 1 to 5 where 5 indicates highest potential collateral risk....
>
> There is a heightened risk of appraisal issues.

(Exh. 9 at p. 9-4.)

36. Kalustian detailed Golden State's internal procedures and policies governing its appraisal practice. Those procedures and policies are codified in Office Policy Concerning Appraiser Procedures, Effective January 1, 2010 (Exh. 79); Appraiser Independence (Exh. 82); and Quality Assurance (Exh. 81). Kalustian explained that reconsideration requests are "very common" and that as the middleman between appraisers and brokers Golden State omits language such as "must," "have to," and "need" from such requests "because it would be perceived as forcing someone to do something." "We try not to influence during the development of the appraisal up to the time of completion, which is when it is signed. After completion, we are allowed to provide data and make requests for correction and addition of information provided by the property owner if relevant." Kalustian explained that reconsideration requests commonly include information listed in subdivision (g) of Business and Professions Code section 11345.4.[7] Kalustian further explained that appraisers are not required to

[7] See Legal Conclusion 4.

change an appraisal, but that they typically respond to say they have looked at the data and to state their agreement or disagreement. Kalustian also testified that he considers the owners value estimate to be "acceptable property data," pursuant to Business and Professions Code section 11345.4(g)(1)(a), and therefore permissible to share with the appraiser. Kalustian's viewpoint overlooks the fact that a property owner should not be confused with an objective market participant. Property owners' occupy an inherent conflict of interest in the appraisal process, motivated in part, by their attempts to obtain the highest appraisal value for their property.

37. In these consolidated matters, BREA incurred costs of investigation and prosecution totaling $41,529.12.

LEGAL CONCLUSIONS

1. Protection of the public shall be the highest priority for the Bureau of Real Estate Appraisers in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Bus. & Prof. Code § 11310.1.)

2. California Code of Regulations, title 10, section 3701 provides that "[e]very holder of a [BREA-issued] license shall conform to and observe the Uniform Standards of Professional Appraisal Practice...and any subsequent amendments thereto as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards are here in incorporated into these regulation as if fully set forth herein." USPAP constitutes the minimum standard of conduct and performance for a licensee in any work or service performed that is addressed by those standards. (Bus. Prof. Code, § 11319.) Appraisal management companies must adopt reasonable procedures designed to ensure that appraisal assignments completed by independent contractor or employee appraisers are performed in accordance with USPAP. (Cal. Code Regs., tit. 10, § 3577.)

3. The 2014-2015 Edition of USPAP, effective January 1, 2014 through December 31, 2015, provides, in pertinent part, the following:

ETHICS RULE

An appraiser must comply with USPAP when obligated by law or regulation, or by Agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

<u>Conduct:</u>

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

An appraiser:

• must not advocate the cause or interest of any party or issue;

• must not accept an assignment that includes the reporting of predetermined opinions and conclusions;

[¶]…[¶]

• must not perform an assignment in a grossly negligent manner.

[¶]…[¶]

RECORD KEEPING RULE

An appraiser must prepare a work file for each appraisal or appraisal review assignment. A work file must be in existence prior to the issuance of any report. A written summary of an oral report must be added to the work file within a reasonable time after the issuance of the oral report.

[¶]…[¶]

An appraiser must retain the work file for a period of at least five years after preparation or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

[¶]…[¶]

An appraiser having custody of a work file must allow other appraisers with work file obligations related to an assignment appropriate access and retrieval for the purpose of:

• submission to state appraiser regulatory agencies;

[¶]…[¶]

An appraiser who willfully or knowingly fails to comply with the obligations of this RECORD KEEPING RULE is in violation of the ETHICS RULE.

COMPETENCY RULE

An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment. In all cases, the appraiser must perform competently when completing the assignment.

[¶]…[¶]

SCOPE OF WORK RULE

[¶]…[¶]

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

[¶]…[¶]

STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

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.

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

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

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

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

[¶]…[¶]

Standards Rule 1-2

In developing a real property appraisal, an appraiser must:

(a) identify the client and other intended users; [Footnote omitted]

(b) identify the intended use of the appraiser's opinions and conclusions; [Footnote omitted]

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price;

[¶]…[¶]

(d) identify the effective date of the appraiser's opinions and conclusions; [Footnote omitted]

[¶]…[¶]

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

Standards Rule 1-3

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

(a) identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

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

[¶]…[¶]

Standards Rule 1-4

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

[¶]…[¶]

STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING

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. [Footnote omitted)

Standards Rule 2-1

Each written or oral real property appraisal report must:

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

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report. [Footnote omitted] [¶...¶]

(a) The content of an 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; [footnote omitted]
[¶]...[¶]

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

[¶]...[¶]

(xii) include a signed certification in accordance with Standards Rule 2-3.

STANDARD 3: APRAISAL REVIEW, DEVELOPMENT AND REPORTING

In developing an appraisal review assignment, an appraiser acting as a reviewer 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 review. In reporting the results of an appraisal review assignment, an appraiser acting as a reviewer must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Standards Rule 3-1

In developing an appraisal review, the reviewer must:

[¶]…[¶]

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

(c) not render appraisal review services in a careless or negligent manner such as making a series of errors that, although individually might not significantly affect the results of an appraisal review, in the aggregate affects the credibility of those results.

Standards Rule 3-2

In developing an appraisal review, the reviewer must:

(a) identify the client and other intended users;

(b) identify the intended use of the reviewer's opinions and conclusions;

[¶...¶]

(c) identify the purpose of the appraisal review, including whether the assignment includes the development of the reviewer's own opinion of value or review opinion related to the work under review;

[¶]…[¶]

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

Standards Rule 3-3

In developing an appraisal review, a reviewer must apply the appraisal review methods and techniques that are necessary for credible assignment results.

[¶]…[¶]

(c) When the scope of work includes the reviewer developing his or her own opinion of value or review opinion, the reviewer must comply with the Standard applicable to the development of that opinion

[¶]…[¶]

Standards Rule 3-4

Each written or oral Appraisal Review Report must be separate from the work under review and must:

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

(b) contain sufficient information to enable the intended users of the appraisal review to understand the report properly; and

[¶]…[¶]

4. Business and Professions Code section 11345.4 provides in relevant part:

No person or entity acting in the capacity of an appraisal management company shall improperly influence or attempt to improperly influence the development, reporting, result, or review of any appraisal through coercion, extortion, inducement, collusion, bribery, intimidation, compensation, or instruction. Prohibited acts include, but are not limited to, the following:

(a) Seeking to influence an appraiser to report a minimum or maximum value for the property being valued. Such influence may include, but is not limited to, the following:

[¶]…[¶]

(4) Providing an appraiser with an anticipated, estimated, encouraged, or desired valuation prior to their completion of an appraisal.

[¶]…[¶]

(g) Nothing in this section prohibits a person or entity acting in the capacity of an appraisal management company from doing any of the following:

(1) Asking an appraiser to do any of the following:

(A) Consider additional, appropriate property information, including information about comparable properties.

(B) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(C) Correct errors in an appraisal report.

(2) Obtaining multiple valuations, for purposes of selecting the most reliable valuation.

5. A BREA-licensee is obligated, upon request, to submit to BREA copies of appraisals or of any work product that is addressed by USPAP in order to substantiate documentation of appraisal experience or to facilitate the investigation of prohibited activities. (Bus. Prof. Code, §§ 11328 and 11328.1.)

6. BREA has the authority to fine or discipline any license or certificate and to deny the issuance or renewal of a license or certificate of any person or entity acting in a capacity requiring licensure or certification for violating any provision of USPAP. (Bus. Prof. Code, § 11316; Cal. Code Regs., tit. 10, § 3721.)

7. The Administrative Law Judge is authorized to direct a licentiate found to have committed a violation of the Real Estate Appraisers' Licensing and Certification Law to pay a sum not to exceed the reasonable costs of investigation, enforcement, and prosecution of the case. (Bus. & Prof. Code, § 11409.)

8. Complainant has the burden of proving by clear and convincing evidence that discipline of respondents' licenses is warranted. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cai.App.3d 853, 856.) A "clear and convincing" evidentiary standard means that complainant must establish the charging allegations by proof that is clear, explicit and unequivocal-so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.) Evidence must be of such convincing force that it demonstrates, in contrast to the opposing evidence, a high probability of the truth of the facts. (See Basic Approved Jury Instructions (Civil, 8th edition), BAJI 2.62.)

9a. On February 5, 2015, Kalustian submitted Mericle's original appraisal report to Omni Fund. (See Factual Finding 13.) Prior to the report's submission, Kalustian failed to verify the accuracy of Mericle's appraisal, including whether the correct unit number had been properly identified on the property. On February 8, 2015, Kalustian was alerted by Omni Fund that the SSR was based on an appraisal report with the wrong address. (See Factual Findings 17 and 27(b).) Despite his knowledge, Kalustian decided to ignore this mistake and did not request a new and correct SSR until January 4, 2017. Further, Kalustian testified that the high CU score on Unit # 107 was justification for ordering a desk review of Mericle's appraisal from Ford, and for repeatedly seeking reconsideration of value requests from Mericle, while simultaneously sharing the owner's $800,000 opinion of value on the subject property, Unit # 203. (See Factual Findings 15a and 21a.)

9b. Neither party disputes that Mericle's February 5, 2015 Appraisal Report contains multiple errors. (See Factual Findings 8, 16, 17, and 34.) The property owner questioned Mericle's opinion of value for the subject property. The property owner's expressed belief was that the subject property was worth $20,000 more than indicated by Mericle's opinion that subject property's value was $780,000. The mortgage broker questioned Mericle's adjustment of the sale price for a comparison property on the basis of the square footage of a patio and requested that Mericle support the adjustment with documentation. Golden State communicated the property owner's estimated value of $800,000, and the mortgage broker's questions to

Mericle. (See Factual Findings 13 and 20.) It is acknowledged that appraisers legitimately bring a subjective opinion to some of their conclusions; this is appropriate, but only to a limited degree. Appraisers are required to correctly report objective information such as zoning, square footage, and what financing was utilized in comp sales they analyze.

9c. Errors in Mericle's February 5, 2015 Appraisal Report were carried over to her Revised Appraisal Report. After receiving the Revised Appraisal Report, the mortgage broker questioned whether Mericle actually inspected the subject property in light a report that a man was observed doing the inspection. Kalustian requested another revision to correct the errors. (See Factual Findings 17 and 18.) This second request for revisions additionally included information that the area in which the subject property is located was not mapped and is thus described as "Flood Zone N." In Mericle's February 5, 2015 Appraisal Report she checked "No" indicating that the subject property was not located in a "FEMA Special Flood Hazard Area," Kalustian believed that "Flood Zone N" was a more accurate account of the legal and locational features of the subject property. Moreover, the second request for revision has several references to "Mike Ford" which Mericle regarded as a "data source." (See Factual Finding 29 and Exh. 33 at p. 00016.) No competent evidence was offered at the administrative hearing establishing that references to or identification of a possible data source is impermissible.

9d. Prior to sending the second request to Mericle, Kalustian sought Ford's advice regarding Omni's ongoing concerns about Mericle's February 5, 2015 Appraisal Report. (See Factual Finding 18.) Ford's guidance to Kalustian is extensively documented in the form of an email communication. (See Factual Findings 19a and 19b.) However, despite Golden State's assertion that a negative CU score was the driving force in their business practices, a preponderance of the evidence suggests that they were making a significant effort to secure an appraisal of $800,000 for their mortgage broker client, Omni Fund. Specifically, Golden State submitted two requests for reconsideration to Mericle that conveyed a direction in value which corresponded with the property owner's opinion of value. (See Factual Findings 15a and 21a.) While there is evidence to indicate that Golden State violated Business and Professions Code section 11345.4 (a)(4), by attempting to improperly influence Mericle's appraisal of the subject property, Complainant did not satisfy the higher evidentiary standard of clear and convincing evidence in order to discipline Respondent's license.

9e. The statements in Ford's Appraisal Review Report indicate that Ford was not establishing an opinion of value for the subject property and that Ford sought clearly articulable justifications for the judgements underlying Mericle's opinion of value for the subject property as part of a quality control process. USPAP Standards Rule 3-3 requires the appraisal reviewer to "develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to that work," "develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to that work" and "develop the reasons for any disagreement." (See Legal Conclusion 3.) Ford's Appraisal Review Report satisfies a portion of the requirements of USPAP Standard Rule 3-3. However, Ford's continued analysis of additional market data and communication of a direction of value raises questions as to his full compliance with Standards Rule 3. Because Ford's appraisal review report is not consistent with his description of his intentions, stated purpose or scope of work, the appraisal review has the potential to be confusing and misleading in general.

9f. One day after the mortgage broker submitted a new order for a new appraiser of the subject property, Mericle queried Kalustian about Ford's Appraisal Review Report. Then, one additional day after that query, Mericle received an email containing Ford's response, which she has construed as an attempt to influence improperly the development, reporting, and result of her February 5, 2015 Appraisal Report, as supplemented. (See Factual Findings 19-21.) As exhibited in Ford's email response to Mericle, Ford's tone was confrontational, abrasive, and unprofessional. The timing of Ford's email, namely after the retention of a new appraiser and in response to Mericle's own inquiry, makes it clear that the communication was not prior to the completion of the report, and thus it cannot be concluded with certainty that the communication was intended to influence a particular opinion of value. Complainant has not presented clear and convincing evidence to reach a contrary conclusion.

9g. Golden State's receipt of complaints, concerns, and information from the broker and Golden State's transmittal of reconsideration requests to Mericle for her to address those complaints, concerns, and information are typical of the functions of appraisal management companies. It is not established by clear and convincing evidence that Golden State engaged in prohibited acts of improper influence.

10. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 66 of the First Cause for Discipline in the First Amended Accusation against Ford:

> Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721 (a)(6) and (a)(7) in conjunction with California Code of Regulations, title 10, section 3701 and Business and Professions Code section 11319 in that Respondent violated USPAP.

11. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67 of the First Cause for Discipline in the First Amended Accusation against Ford:

> During February of 2015, Respondent completed a review appraisal of the property located at 175 Bluxome Street, Unit 203, San Francisco, California, and communicated several messages to the original appraiser. The report contains certain errors and omissions in violation of the Uniform Standards of Professional Appraisal Practice (USPAP), California Business and Professions Code Division 4, Part 3, Sections 11300 et seq., and the California Code of Regulations Title 10, Chapter 6.5, sections 3500 et seq.

12. By reason or Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(a) of the First Cause for Discipline in the First Amended Accusation against Ford:

Respondent failed to complete the appropriate scope of work for his appraisal review. The report fails to state how Respondent determined that the original appraiser did not inspect the subject property, or Respondent wrote a letter with a false statement to the Bureau of Real Estate Appraisers (S.R. 3-2(h), 3-4(a)(b) and Conduct section of the Ethics Rule)[.]

13. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, 27b, and 30 and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(b) of the First Cause for Discipline in the First Amended Accusation against Ford:

Respondent referenced a CU Score in his review, but failed to document his work file accordingly, or failed to cooperate with the investigation (Record Keeping Rule and California Business and Professions Code section 11328)[.]

14. By reason of Factual Findings 17 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(c) of the First Cause for Discipline in the First Amended Accusation against Ford:

Respondent made a misleading statement regarding the FEMA flood reporting in the report that he reviewed. Respondent erroneously indicted that the statement in the report that he reviewed was false (S.R. 1-2(e)(i), 3-1(b), 3-2(d)(iv), 3-3(a)(ii) and Competency Rule)[.]

15. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(d) of the First Cause for Discipline in the First Amended Accusation against Ford: Respondent made unsupported statements in his review regarding how the original appraiser should have adjusted comparables (S.R. 3-1(a), 3-4(b), and Competency Rule)[.]

16. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9 Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(e) of the First Cause for Discipline in the First Amended Accusation against Ford:

Respondent failed to describe the subject property. Respondent stated that the description of the subject property in the appraisal that he reviewed was inadequate, but failed to produce any other basis for his valuation of the subject property (S.R. 1-1(a), 1-1(b), 1-2(e)(i), 3-2(h), 3-4(b) and Conduct section of the Ethics Rule)[.]

17. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing

evidence the following allegation set forth in paragraph 67(f) of the First Cause for Discipline in the First Amended Accusation against Ford:

> Respondent failed to complete the Sales Comparison Approach to value properly. The description of the comparable sales is incomplete as is the associated analysis. The data sources are unstated, the verification sources are unstated. (S.R. 1-l(a), 1-l(b), 1-4(a), 3-3(c)(i), 3-4(b) and Conduct section of the Ethics Rule)[.]

18. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(g) of the First Cause for Discipline in the First Amended Accusation against Ford:

> Respondent made erroneous statements in his review appraisal report. Amongst these was that the subject property was not a single-family residence (SR. 3-1 (a)(b), and 3-2 (d)(iv))[.]

19. By reason of Factual Findings 18 through 20, 24, 25a, 25b, 25c, 26, and 30, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 67(h) of the First Cause for Discipline in the First Amended Accusation against Ford:

> Respondent rendered services in a grossly unprofessional manner. Respondent failed to respect appraiser independence. Respondent communicated with another appraiser in a grossly inappropriate manner. Respondent was grossly negligent (Conduct section of the Ethics Rule and California Code or Regulations section 3702 (a)(1)(3)).

20. By reason of Factual Findings 8, 11 through 14, 16 through 18, 23, and 24, and Legal Conclusions 1 through 9, Complainant did not establish by clear and convincing evidence the following allegation set forth in paragraph 40 of the First Cause for Discipline (Improper Influence) in the Accusation against Golden State:

> Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721 (a)(7) for violating Code section 11345.4. Specifically, Respondent attempted to influence the development, reporting, and result of an appraisal report through coercion, inducement, and intimidation via a series of communications. Respondent sent JM two separate communications encouraging a higher appraised valuation of $800,000 as well as stating additional comparables well support such a valuation. Further Respondent made many additional comments to intimidate, induce, and coerce JM to change her appraisal report. Such actions fail to respect the appraiser independence requirement and are improper influence.

21. By reason of Factual Findings 8, 11 through 14, 16 through 18, 23, and 24, Complainant did not establish by clear and convincing evidence the following allegation set forth

in paragraph 41 of the Second Cause for Discipline (Failure to Adopt Reasonable Procedures) in the Accusation against Golden State:

> Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721(a)(7) for violating California Code of Regulations, title 10, section 3577(b.) Specifically, Respondent failed to adopt reasonable procedures designed to ensure that all appraisal assignments completed by its independent contractor and employee appraisers are performed in accordance with USPAP. Respondent failed to adopt reasonable procedures to: determine the correct SSRs are received before ordering a review appraisal analyzing any aspect of the SSR; recognize the foundational importance of whether the appraisers had signed a false certification; recognize that it is responsible for USPAP compliance on all appraisal reports that they order including review appraisals; and prevent conduct that constitutes improper influence.

22. Since complainant has failed to establish by clear and convincing evidence that cause exists to discipline Ford's Real Estate Appraiser License number AG002512 or Golden State's Appraisal Management Company Registration number 1264, BREA shall not recover its costs of investigation and prosecution set forth in Factual Finding 42. (See *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal. App. 4th 32, 45.)

23. All factual and legal arguments asserted during the May 8, 9, 10, 11, and 12, 2017 hearing not addressed herein are unsupported by the evidence, irrelevant, without merit, or constitute surplusage.

ORDER

1. The First Amended Accusation against Michael F. Ford is dismissed.

2. The Accusation against Golden State Appraisal Management Company LLC is dismissed.

This Decision shall become effective on 2-7-18.

IT IS SO ORDERED this 7th day of February 2018.

Original Signed

James S. Martin
Chief, Bureau of Real Estate Appraisers