

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

In the Matter of the Accusation Against:

Case No. C20150209-02

**OTTO F. KREBS
2549 East Bluff Drive #132
Newport Beach, CA 92660**

**Certified Residential Appraiser
License No. 023309;**

And

**DILIGENT ASSET VALUATIONS
4500 Campus Drive #521
Newport Beach, CA 92660**

**Appraisal Management Company
Certification No. 1382**

Respondents.

DECISION AND ORDER

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted by the Chief of the Bureau of Real Estate Appraisers, Department of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on 9-16-10

It is so ORDERED 9-16-10

Original Signed

FOR THE CHIEF OF THE BUREAU OF REAL ESTATE
APPRAISERS
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. C20150209-02¹

13 **OTTO F. KREBS**
2549 East Bluff Drive #132
14 Newport Beach, CA 92660

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Certified Residential Appraiser**
License No. 023309;

16 **And**

17 **DILIGENT ASSET VALUATIONS**
4500 Campus Drive #521
18 Newport Beach, CA 92660

19 **Appraisal Management Company**
20 **Certification No. 1382**

21 Respondents.

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

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26
27 ¹ The Bureau lists the following case numbers for this matter, as this action results from
several complaints: A20141226-01, A20150309-01, A20150309-02, A20150309-03, A20150309-
28 04, A20150309-05, and A20160211-01. For ease of reference, this matter is captioned herein
with case number C20150209-02.

1 **PARTIES**

2 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
3 (Complainant), Department of Consumer Affairs, brought this action solely in her capacity as the
4 Chief of Enforcement for Complainant and is represented in this matter by Kamala D. Harris,
5 Attorney General of the State of California, by Erin M. Sunseri, Deputy Attorney General.

6 2. Otto F. Krebs (Respondent Krebs) and Diligent Asset Valuations (Respondent
7 Diligent Asset Valuations) are representing themselves in this proceeding and have chosen not to
8 exercise their right to be represented by counsel.

9 3. On or about June 22, 1994, the Bureau of Real Estate Appraisers (formerly Office of
10 Real Estate Appraisers) issued Certified Residential Appraiser License No. 023309 to Respondent
11 Krebs. The Certified Residential Appraiser License was in full force and effect at all times
12 relevant to the charges brought in Accusation No. C20150209-02 and will expire on March 30,
13 2017, unless renewed.

14 4. On or about May 20, 2010, the Bureau issued Appraisal Management Company
15 (AMC) Certificate of Registration No. 1382 to HVCC Appraisals1. On or about February 8,
16 2011, Respondent Krebs sent the Bureau a written request to change the name on record for
17 HVCC Appraisals1 to Diligent Asset Valuations. On or about March 15, 2011, Certificate of
18 Registration No. 1382 was issued identifying Respondent Diligent Asset Valuations as the
19 company name on the certificate. Respondent Krebs was the designated officer of Respondent
20 Diligent Asset Valuations. The registration expired on May 19, 2012, and has not been renewed.

21 **JURISDICTION**

22 5. Accusation No. C20150209-02 was filed before the Bureau of Real Estate Appraisers
23 (Bureau), for the Department of Consumer Affairs, and is currently pending against Respondents.
24 The Accusation and all other statutorily required documents were properly served on
25 Respondents on June 22, 2016. Respondents timely filed their Notice of Defense contesting the
26 Accusation. A copy of Accusation No. C20150209-02 is attached as Exhibit A and incorporated
27 by reference.

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1 6. When deemed by the Bureau Chief to be in the public interest, Complainant has the
2 authority under Business and Professions Code section 11315.5 to enter into a settlement related
3 to administrative allegations of violations of Real Estate Appraisers' Licensing and Certification
4 Law or regulations promulgated pursuant thereto, upon any terms and conditions as the Bureau
5 Chief deems appropriate.

6 **ADVISEMENT AND WAIVERS**

7 7. Respondents have carefully read, and understand the charges and allegations in
8 Accusation No. C20150209-02. Respondents have also carefully read, and understand the effects
9 of this Stipulated Surrender of License and Order.

10 8. Respondents are fully aware of their legal rights in this matter, including the right to a
11 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
12 their own expense; the right to confront and cross-examine the witnesses against them; the right
13 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
14 compel the attendance of witnesses and the production of documents; the right to reconsideration
15 and court review of an adverse decision; and all other rights accorded by the California
16 Administrative Procedure Act and other applicable laws.

17 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
18 every right set forth above.

19 **CULPABILITY**

20 10. Respondents admit the truth of each and every charge and allegation in Accusation
21 No. C20150209-02, and agree that cause exists for discipline against their Certified Real Estate
22 Appraiser License and Appraisal Management Company Certificate of Registration. Respondent
23 Krebs hereby surrenders his Certified Residential Appraiser License No. 023309 for the Bureau's
24 formal acceptance. Respondent Diligent Asset Valuations hereby agrees that its Appraisal
25 Management Company Certificate of Registration shall be publicly reproved.

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11. Respondent Krebs understands that by signing this stipulation he enables the Bureau Chief to issue an order accepting the surrender of his Certified Residential Appraiser License without further process. Respondent Diligent Asset Valuations understands that by signing this stipulation it enables the Bureau to publicly reprove its Appraisal Management Company Certificate of Registration without further process.

12. Respondents understand and agree that, by signing this Stipulated Surrender, the Bureau Chief will treat any application for licensure, or certificate of registration as an appraisal management company, or petition for reinstatement as a new application for licensure.

13. Respondents understand and acknowledge that, pursuant to Business and Professions Code section 11409(c)(2), the Bureau of Real Estate Appraisers is not authorized to accept a new application from Respondents for licensure or certification until such time that payment of the costs of investigation, enforcement and prosecution of this case, as imposed by this order, is received in full.

CONTINGENCY

14. This stipulation shall be subject to approval by the Bureau of Real Estate Appraisers. Respondents understand and agree that counsel for Complainant and the staff of the Bureau of Real Estate Appraisers may communicate directly with the Bureau Chief regarding this stipulation and surrender, without notice to or participation by Respondents. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Bureau Chief considers and acts upon it. If the Bureau Chief fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Bureau shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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1 the time any application or petition is filed, and all of the charges and allegations contained in
2 Accusation No. C20150209-02 shall be deemed to be true, correct and admitted by Respondent
3 Krebs when the Bureau determines whether to grant or deny the application or petition.

4 5. Respondent Krebs shall not be eligible to apply for a new license or for a certification
5 of registration as an appraisal management company until 1 year from the effective date of this
6 Stipulated Settlement.

7 6. Respondent Krebs shall pay the agency its costs of investigation and enforcement in
8 the amount of \$14,538.83 prior to issuance of a new or reinstated license or certificate of
9 registration as an appraisal management company.

10 7. If Respondent Krebs should ever reapply for a license, certification, certificate of
11 registration as an appraisal management company, or petition for reinstatement of a license, by
12 any other licensing agency in the State of California, all of the charges and allegations contained
13 in Accusation, No. C20150209-02 shall be deemed to be true, correct, and admitted by
14 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
15 restrict licensure.

16 8. Respondent Krebs shall pay the Bureau an administrative fine of \$20,000.00 prior to
17 issuance of a new or reinstated license or certificate of registration as an appraisal management
18 company. However, Respondent shall not be required to pay these charges as long as his license
19 remains surrendered and he is not issued a new certificate of registration as an appraisal
20 management company.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Certified Residential Appraiser License and my Appraisal Management Company Certificate of Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Bureau of Real Estate Appraisers.

Original Signed

DATED: 7-1-11

OTTO F. KREBS, personally and as
Authorized Agent for Diligent Asset Valuations
Respondents

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Bureau of Real Estate Appraisers.

Dated: 7/6/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

Original Signed

ERIN M. SUNSERI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. C20150209-02

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10 **STATE OF CALIFORNIA**

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12 In the Matter of the Accusation Against:

Case No. C20150209-02¹

13 **OTTO F. KREBS**
2549 East Bluff Drive #132
14 Newport Beach, CA 92660

ACCUSATION

15 Certified Residential Appraiser
License No. 023309;

16 And

17 **DILIGENT ASSET VALUATIONS**
4500 Campus Drive #521
18 Newport Beach, CA 92660

19 Appraisal Management Company
20 Certification No. 1382

21 Respondents.

22
23 Complainant alleges:
24
25

26 ¹ The Bureau lists the following case numbers for this matter, as this action results from
several complaints: A20141226-01, A20150309-01, A20150309-02, A20150309-03, A20150309-
27 04, A20150309-05, and A20160211-01. For ease of reference, this matter is captioned herein
with case number C20150209-02.
28

1 PARTIES

2 1. Elizabeth Seaters, acting on behalf of the Bureau of Real Estate Appraisers
3 (Complainant), Department of Consumer Affairs, brings this Accusation solely in her official
4 capacity as Chief of Enforcement for Complainant.

5 2. On or about June 22, 1994, the Bureau of Real Estate Appraisers (formerly Office of
6 Real Estate Appraisers) issued Certified Residential Appraiser License Number 023309 to Otto F.
7 Krebs (Respondent Krebs). The Certified Residential Appraiser License was in full force and
8 effect at all times relevant to the charges brought herein and will expire on March 30, 2017,
9 unless renewed.

10 3. On or about April 29, 2010, Respondent Krebs submitted an Appraisal Management
11 Company (AMC) Certificate of Registration Application to the Bureau of Real Estate Appraisers
12 (BREA) for HVCC Appraisals¹. Respondent Krebs was the sole proprietor and designated officer
13 of HVCC Appraisals¹.

14 4. On or about May 20, 2010, BREA issued AMC Certificate of Registration No. 1382
15 to HVCC Appraisals¹. On or about February 8, 2011, Respondent sent BREA a written request to
16 change the name on record for HVCC Appraisals¹ to Diligent Asset Valuations (Respondent
17 DAV). Respondent faxed BREA a City of Newport Beach business tax certificate. This tax
18 certificate reported Respondent Krebs as the owner and sole proprietor of Respondent DAV. On
19 or about March 15, 2011, Certificate of Registration No. 1382 was issued identifying Respondent
20 DAV as the company name on the certificate. The registration expired on May 19, 2012, and has
21 not been renewed.

22 JURISDICTION, STATUTORY AND REGULATORY PROVISIONS

23 5. This Accusation is brought before the Bureau of Real Estate Appraisers (Bureau) for
24 the Department of Consumer Affairs, under the authority of the following laws. All section
25 references are to the Business and Professions Code unless otherwise indicated.

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1 6. Section 141 of the Code states:

2 (a) For any licensee holding a license issued by a board under the jurisdiction of the
3 department, a disciplinary action taken by another state, by any agency of the federal government,
4 or by another country for any act substantially related to the practice regulated by the California
5 license, may be a ground for disciplinary action by the respective state licensing board. A
6 certified copy of the record of the disciplinary action taken against the licensee by another state,
7 an agency of the federal government, or another country shall be conclusive evidence of the
8 events related therein.

9 (b) Nothing in this section shall preclude a board from applying a specific statutory
10 provision in the licensing act administered by that board that provides for discipline based upon a
11 disciplinary action taken against the licensee by another state, an agency of the federal
12 government, or another country.

13 7. Business and Professions Code section 11301 states that there is hereby created
14 within the Department of Consumer Affairs a Bureau of Real Estate Appraisers to administer and
15 enforce this part. Whenever the term "Office of Real Estate Appraisers" appears in any other law,
16 it means the "Bureau of Real Estate Appraisers."

17 8. Business and Professions Code section 11302(d)(1) states that "appraisal
18 management company" means any person or entity that satisfies all of the following conditions:
19 (A) maintains an approved list or lists, containing 11 or more independent contractor appraisers
20 licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified
21 pursuant to this part; (B) receives requests for appraisals from one or more clients; and (C) for a
22 fee paid by one or more of its clients, delegates appraisal assignments for completion by its
23 independent contractor or employee appraisers.

24 9. Business and Professions Code section 11313 states, in pertinent part:

25 The bureau is under the supervision and control of the Director of Consumer Affairs. The
26 **duty** of enforcing and administering this part is vested in the chief, and he or she is responsible to
27 the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and
28 regulations as are determined reasonably necessary to carry out the purposes of this part.

1 10. Business and Professions Code section 11315.3 states that the suspension,
2 expiration, or forfeiture by operation of law of a license or certificate of registration issued by the
3 office, or its suspension, forfeiture, or cancellation by order of the office or by order of a court of
4 law, or its surrender without the written consent of the office, shall not, during any period in
5 which it may be renewed, restored, reissued, or reinstated, deprive the office of its authority to
6 institute or continue a disciplinary proceeding against the licensee or registrant upon any ground
7 provided by law or to enter an order suspending or revoking the license or certificate of
8 registration, or otherwise taking disciplinary action against the licensee or registrant on any such
9 ground.

10 11. Business and Professions Code section 11316, subdivision (a) states, in pertinent
11 part, that the director may assess a fine against a licensee, applicant for licensure, person who acts
12 in a capacity that requires a license under this part, course provider, applicant for course provider
13 accreditation, or a person who, or entity that, acts in a capacity that requires course provider
14 accreditation for violation of this part or any regulations adopted to carry out its purposes. Failure
15 of a licensee to pay a fine or make a fine payment within 30 days of the date of assessment shall
16 result in disciplinary action by the office. If a licensee fails to pay a fine within 30 days, the
17 director shall charge him interest and a penalty of 10 percent of the fine or payment amount. If a
18 fine is not paid, the full amount of the assessed fine shall be added to any fee for renewal of a
19 license. A license shall not be renewed prior to payment of the renewal fee and fine. The director
20 may order the full amount of any fine to be immediately due and payable if any payment on the
21 fine, or portion thereof, is not received within 30 days of its due date. Any fine, or interest
22 thereon, not paid within 30 days of a final order shall constitute a valid and enforceable civil
23 judgment

24 12. Business and Professions Code section 11320.5 states:

25 No person or entity shall act in the capacity of an appraisal management company without
26 first obtaining a certificate of registration from the office.

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1 13. Title 10, California Code of Regulations, section 3577, states, in pertinent part:

2 All Appraisal Management Companies must ensure that they adhere to the following
3 business practices when performing appraisal management services for properties located within
4 the State of California:

5

6 (c) Appraisal Management Companies must maintain records of each of the following for
7 each service request:

8 (1) Date of the receipt of the request;

9 (2) The name of the person from whom the request was received;

10 (3) The name of the client for whom the request was made, if different from the name of the
11 person from whom the request was received.

12 (4) The name of the appraiser or appraisers assigned to perform the contracted service; and

13 (5) The date of delivery of the appraisal product to the client.

14

15 (d) Appraisal Management Companies must maintain records of all appraisal fees dispersed
16 to contracted appraisers and the final fee charged to the lender/client.

17 14. Business and Professions Code section 11328 states, in pertinent part:

18 To substantiate documentation of appraisal experience, or to facilitate the investigation of
19 illegal or unethical activities by a licensee, applicant, or other person acting in a capacity that
20 requires a license, that licensee, applicant, or person shall, upon the request of the director, submit
21 copies of appraisals, or any work product which is addressed by the Uniform Standards of
22 Professional Appraisal Practice, and all supporting documentation and data to the office.

23 15. Business and Professions Code section 11328.1 states, in pertinent part, if the
24 director has a reasonable belief that a registrant, or person or entity acting in a capacity that
25 requires a certificate of registration, has engaged in activities prohibited under this part, he or she
26 may submit a written request to the registrant, person, or entity, requesting copies of written
27 material related to his or her investigation. Any registrant, person, or entity receiving a written
28 request from the director for information related to an investigation of prohibited activities shall

1 submit that information to the director or the office within a reasonable period of time, which
2 shall be specified by the director in his or her written request.

3 16. Title 10, California Code of Regulations section 3702 states, in pertinent part, that:

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

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

10 (2) That registered Appraisal Management Companies are vested with a relationship of trust
11 and confidence as to their clients, lending institutions, and both public and private guarantors or
12 insurers of funds in federally-related real estate transactions and that the qualifications of honesty,
13 candor, integrity, and trustworthiness are directly and substantially related to and indispensable to
14 their business operations; and

15 (3) Every holder of a license to practice real estate appraisal, Registrant, Controlling Person
16 of an Appraisal Management Company, or person or entity acting in a capacity requiring a license
17 or Certificate of Registration shall be required to demonstrate by his or her conduct that he or she
18 possesses the qualifications of honesty, candor, integrity, and trustworthiness.

19

20 17. California Code of Regulations, title 10, section 3721 states, in pertinent part:

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

25

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

28

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

5
6 **COST RECOVERY**

7 18. Section 11409(a) of the Code provides that any order issued in resolution of a
8 disciplinary proceeding may direct a licensee found to have committed a violation or violations
9 of statutes or regulations relating to real estate appraiser practice to pay a sum not to exceed the
10 reasonable costs on investigation, enforcement, and prosecution of the case. Nothing in this
11 section shall preclude the office from including the recovery of the costs of investigation and
12 enforcement of a case in any default decision or stipulated settlement.

13 **FACTUAL BACKGROUND**

14 **Appraiser J.P.**

15 19. On or about August 23, 2011, Respondents Krebs and DAV hired certified residential
16 appraiser J.P. to perform an appraisal in Arizona through Mercury Network². Respondent DAV
17 advised J.P. that he would be paid \$495.00 for the appraisal. The intended user of the appraisal
18 was Respondent DAV, and the intended use of the appraisal was to establish market value of a
19 property for bankruptcy and/or foreclosure purposes. On or about August 29, 2011, J.P.
20 completed and delivered the appraisal to Respondents, and invoiced them for the appraisal.

21 20. On or about December 6, 2011, J.P. faxed his appraisal invoice to Respondents. On
22 or about January 4, 2012, J.P. left a voicemail for Respondent Krebs. On or about January 9,
23 2012, J.P. emailed Respondents, requesting that his previous September 2012 appraisal invoice be

24
25 ² Mercury Network LLC is a company which assists lenders and AMCs in managing their
26 appraisal operations from a cloud-based platform. Mercury Network is not an AMC, but rather a
27 technology provider for AMCs and lenders. Member AMCs use Mercury Network's technology
28 and platform to both secure appraisal orders from lenders and locate and hire local appraisers to
perform the appraisal on behalf of the AMC. The appraiser performs the appraisal, and provides it
to the hiring AMC. The AMC then provides the appraisal to the hiring lender. The lender pays
the AMC directly for the appraisal, and the AMC then pays the appraiser for the appraisal.

1 forwarded to accounts payable. On or about January 19, 2012, J.P. again faxed his appraisal
2 invoice to Respondents. J.P. filed a complaint with the Arizona Board of Appraisal. To date,
3 Respondents Krebs and DAV have failed and refused to compensate J.P. for the appraisal service
4 provided.

5 Appraiser D.M.

6 21. In or about November 2011, Respondents Krebs and DAV hired certified residential
7 appraiser D.M. to perform two separate appraisals in Nevada. The intended user of the appraisals
8 was Respondent DAV, and the intended uses of the appraisals were to establish market value of
9 property for bankruptcy and "other" purposes. Both appraisals were completed in 2011, and
10 invoiced to Respondents. D.M. began contacting Respondents for non-payment beginning on
11 January 24, 2012, and continued on February 14, 2012, February 23, 2012, February 29, 2012,
12 and March 27, 2012. D.M. left voicemail messages, emailed, faxed, and mailed invoices to
13 Respondents, all of which received no response from Respondents.

14 22. On or about June 13, 2012, D.M. sent Respondents to a collection agency.

15 23. On or about April 23, 2013, D.M. received two additional requests for appraisals
16 from Respondents, through Mercury Network, which he did not accept. All of Respondents'
17 contact information remained the same information that D.M. had used to provide the appraisals
18 for Respondents in 2011, and the same information D.M. had used to attempt to collect the unpaid
19 fees. To date, Respondents Krebs and DAV have failed and refused to compensate D.M. for the
20 appraisal services provided.

21 Appraiser K.C.

22 24. On or about September 18, 2012, Respondents Krebs and DAV hired certified
23 residential appraiser K.C. to perform an appraisal in California through Mercury Network.
24 Respondent DAV advised K.C. that he would be paid \$450.00 for the appraisal. The intended
25 user of the appraisal was Respondent DAV, and the intended use of the appraisal was to establish
26 market value of a property for bankruptcy purposes. On or about September 25, 2012, K.C.
27 completed and delivered the appraisal to Respondents, and sent Respondents an invoice for the
28 appraisal. K.C. began contacting Respondents for non-payment beginning on October 30, 2012.

1 K.C. left voicemail messages for Respondent Krebs, sent emails through Mercury Network, and
2 to Respondent Krebs' email address directly.

3 25. K.C. invoiced Respondents for the September 25, 2012 appraisal on the following
4 dates: September 25, 2012, October 25, 2012, November 6, 2012, November 15, 2012, and
5 March 19, 2013 (twice). K.C. also attempted to contact Respondent Krebs on November 12,
6 2012. Mercury Network's history of this appraisal show that Respondent Krebs viewed the
7 completed report on September 26, 2012, March 14, 2013, and again on April 22, 2013.

8 Respondent Krebs failed and refused to respond to any telephone messages or emails from K.C.

9 26. K.C. contacted the owner of Mercury Network, and filed a complaint regarding
10 Respondents' non-payment. K.C. was advised that, at that time, they had a record of six
11 appraisals Respondents had failed to pay for, and three additional appraisers who had contacted
12 Mercury Network with complaints against Respondents. To date, Respondents Krebs and DAV
13 have failed and refused to compensate K.C. for the appraisal service provided.

14 Complainant J.D.

15 27. On or about March 1, 2013 and April 9, 2013, Respondents Krebs and DAV hired
16 certified residential appraisers K.M. and S.R. to perform two appraisals in Washington State
17 through Mercury Network. The appraisals were completed and Respondents were invoiced for the
18 services. Bookkeeper J.D. emailed Respondents on June 11, 2013, with no response. On July 16,
19 2013, J.D. again emailed and also called Respondents and left a message. J.D. left additional
20 voicemails on August 6 and August 30, 2013. Respondent Krebs failed and refused to respond to
21 any telephone messages or emails from J.D. To date, Respondents Krebs and DAV have failed
22 and refused to compensate K.M. and S.R. for the appraisal services provided.

23 Appraiser A.R.

24 28. On or about March 4, 2013, Respondents Krebs and DAV hired certified residential
25 appraiser A.R. to perform an appraisal in California through Mercury Network. The intended user
26 of the appraisal was Respondent DAV, and the intended use of the appraisal was to establish
27 market value of a property for bankruptcy purposes. On or about March 11, 2013, A.R.
28

1 completed and delivered the appraisal to Respondents, and sent Respondents an invoice for the
2 appraisal. The appraisal was reviewed and accepted by Respondents.

3 29. A.R. invoiced Respondents for the appraisal on the following dates: March 11, 2013,
4 April 19, 2013, May 8, 2013, and June 11, 2013. A.R. also repeatedly attempted to contact
5 Respondent Krebs by telephone. Respondent Krebs failed and refused to respond to any
6 telephone messages or emails from A.R.

7 30. On or about June 19, 2013, A.R. visited Appraisersforum.com, an online appraisal
8 community. In searching Respondents Krebs and DAV, A.R. found six postings from appraisers
9 (nationwide), all with substantially similar complaints regarding appraisals ordered by
10 Respondents through Mercury network, acting as an AMC, and all with the agreed upon fees
11 remaining ignored and unpaid by Respondents. To date, Respondents Krebs and DAV have failed
12 and refused to compensate A.R. for the appraisal service provided.

13 Appraiser D.R.

14 31. On or about May 20, 2013, Respondents Krebs and DAV hired certified residential
15 appraiser D.R. to perform an appraisal in California through Mercury Network. The appraisal was
16 completed and transmitted to Respondents on June 10, 2013, and Respondents were invoiced for
17 the services. To date, Respondents Krebs and DAV have failed and refused to compensate D.R.
18 for the appraisal service provided.

19 Appraiser B.M.

20 32. On or about September 16, 2014, Respondents Krebs and DAV hired certified
21 residential appraiser B.M. to perform an appraisal in Oregon through Mercury Network. The
22 **intended** user of the appraisal was Respondent DAV, and the intended use of the appraisal was to
23 establish market value of a property for bankruptcy purposes. On or about September 24, 2014,
24 B.M. completed the appraisal for Respondents and electronically delivered the appraisal and an
25 invoice for the appraisal to Respondents. Respondent Krebs requested a new electronic copy of
26 the appraisal only, with the invoice removed, which B.M. provided.

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1 33. On or about September 26, 2014, B.M. contacted the Oregon Appraiser Certification
2 & Licensure Board (ACLB) and discovered that Respondent DAV was not registered with
3 ACLB, as required by Oregon law.

4 34. On or about December 4, 2014, B.M. emailed Respondents, reminding them that
5 payment for the September 24, 2014 invoice had not been received and was over 60 days past
6 due. On or about December 16, 2014, B.M. again emailed Respondents, reminding them that the
7 invoice was now almost 90 days past due. B.M. advised Respondents that he had left multiple
8 telephone messages and sent prior emails with no response, leading him to believe that
9 Respondents intended to defraud him of his services, and that he would be taking action against
10 Respondents. On or about December 17, 2014, B.M. emailed Respondents again, attaching a
11 prior email from Respondents dated September 24, 2014, showing that Respondents had received
12 the appraisal from B.M. To date, Respondents Krebs and DAV have failed and refused to
13 compensate B.M. for the appraisal service provided.

14 35. On or about May 20, 2015, BREa requested that Respondent Krebs provide
15 Respondent DAV's transactions regarding the cases detailed above. On or about June 29, 2015,
16 BREa received a reply from Respondent Krebs, wherein he admitted that the fee dispersed for
17 case A20141226-01 [appraiser B.M., detailed above] is "unknown." Respondent Krebs went on
18 to state "I am sorry but I do not have any records of the other information. I had a computer crash
19 and lost old information. I also had a computer stolen with my accounting records."

20 36. During a telephone interview with the BREa investigator on or about August 20,
21 2015, Respondent Krebs stated that he collected checks from his clients. He then said that the
22 appraisers were paid after the report was completed, that it could have been "a week or two
23 weeks," and that the appraisers were paid by check. Respondent Krebs stated that he had a
24 bookkeeper, and that her computer had been stolen. He did not know what kind of software his
25 bookkeeper had been using. Respondent Krebs stated that he did not have copies of the bank
26 records. Respondent Krebs was asked to provide a copy of the police report for the stolen
27 computer, and bank records and canceled checks for payments to the appraisers.

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1 37. On or about August 25, 2015, in response to a follow-up email request from the
2 investigator, Respondent Krebs stated that the Newport Beach police refused to release a copy of
3 the police report to anyone other than the person who made the report. He also said that he was
4 checking bank records currently, and hoped to have this matter resolved soon. Respondent Krebs
5 never provided any of the requested follow-up documentation to the investigator.

6 38. On or about August 28, 2015, Respondent Krebs, as the Designated Officer of
7 Respondent DAV, was sent a letter from BREA directing Respondent DAV to cease and desist if
8 acting in the capacity of an AMC. Respondent Krebs was given 30 days to respond to this letter.
9 BREA received an executed certified domestic return receipt confirming delivery of the letter;
10 however, Respondent Krebs failed to reply.

11 39. On or about October 16, 2015, Respondent Krebs called and spoke with another
12 BREA investigator. Respondent Krebs told the investigator that he knows there are seven cases
13 regarding non-payment of the appraisal fees pending against him, and admitted that his records
14 are "so bad" that he does not know whom he did or did not pay. Respondent Krebs claimed that
15 he "want[ed] to pay" the appraisers. However, on or about January 19, 2016, the investigator
16 contacted multiple unpaid appraisers who all stated that Respondents had not contacted, nor paid,
17 any of them. To date, Respondents have failed and refused to compensate the appraisers for the
18 appraisal services provided.

19 40. Respondents have failed to pay engaged appraisers an agreed upon fee after the
20 assignments were delivered on numerous occasions between 2011 and 2014, and failed to
21 maintain required records of all appraisal fees dispersed to contracted appraisers.

22 41. On or about August 1, 2015, the investigator contacted K.S., the AMC Compliance
23 Specialist II with the State of Oregon Appraiser Certification and Licensure Board (ACLB). K.S.
24 reported that she had an active case against Respondents Krebs and DAV.

25 42. On or about February 23, 2014, ACLB had sent Respondent DAV, with attention to
26 Respondent Krebs, a letter requesting copies of records for an appraisal order. On March 26,
27 2015, Respondent Krebs provided a dishonest response when he stated "I received this letter and
28 am writing to let you know, I am not the owner of this company and never have been. When I

1 was involved with this company several years ago it was never an Appraisal Management
2 Company (AMC). I have never heard of this file of appraiser in this letter. As far as I know this
3 company does not exist anymore and has never done work in Oregon." The letter was signed by
4 Respondent Krebs.

5 43. As detailed above, however, Respondent Krebs was the sole owner and sole
6 proprietor of Respondent DAV. Respondent Krebs, acting in the capacity of a designated officer,
7 was issued a certificate of registration for Respondent DAV by BREa on or about March 15,
8 2011. Respondent Krebs also provided false information to ACLB when he reported that he had
9 never heard of the file or the appraiser referenced in ACLB's letter because he admitted to BREa
10 that he had ordered that specific appraisal. Therefore, Respondent Krebs provided false
11 information to ACLB in the course of their investigation.

12 **FIRST CAUSE FOR DISCIPLINE**

13 (As to Respondent Diligent Asset Valuations-Acting in the Capacity of an Appraisal
14 Management Company without a Valid/Current Certificate of Registration)

15 44.y Respondent DAV is subject to disciplinary action under Code section 11320.5, in that
16 Respondent willfully and knowingly acted in the capacity of an appraisal management company
17 without obtaining and maintaining a certificate of registration.

18 45.y On or about May 20, 2010, Respondent Krebs registered his AMC, Respondent DAV,y
19 with the Bureau of Real Estate Appraisers. Respondent Krebs failed to renew the registration
20 upon its expiration on May 19, 2012. Therefore, Respondent did not have a valid registered
21 AMC after May 19, 2012.

22 46.y On or about October 20, 2015, Mercury Network provided BREa with a list of orders
23 placed by Respondent DAV through Mercury Network after the expiration of Respondent DAV's
24 certificate of registration. Mercury Network had documentation that after the expiration of
25 Respondent DAV's certificate of registration, Respondent DAV received completed appraisal
26 assignments from 63 individual licensed California appraisers.

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1 47. Appraiser D.R. provided BREa with documentation that Respondent DAV received a
2 request for an appraisal from an attorney, R.Z., and that R.Z.'s law firm paid a fee to Respondent
3 DAV for the appraisal order that was sent to and completed by D.R. in 2013.

4 48. Further, appraisers D.M., K.C., J.D., A.R., and B.M. also provided documentation of
5 Respondent DAV's acting in the capacity of an appraisal management company after the
6 expiration and non-renewal of its certificate of registration on May 19, 2012.

7 49. Respondent engaged at least 63 California licensed and/or certified appraisers,
8 received requests for appraisals from one or more clients, and was paid a fee by one or more
9 clients for appraisal reports that were completed by Respondent's independent contractor
10 appraisers.

11 50. Therefore, as detailed above in paragraphs 23 through 49 Respondent DAV acted in
12 the capacity of an appraisal management company without first obtaining a certificate of
13 registration from BREa in violation of Code Section 11320.5.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (As to Respondents Krehs and Diligent Asset Valuations-Failure to Maintain
16 Records of All Appraisal Fees Dispersed to Contracted Appraisers)

17 51. Respondents are subject to disciplinary action under California Code of Regulations
18 section 3577(d), in that they failed to maintain records of all appraisal fees dispersed to contracted
19 appraisers, as detailed above in paragraphs 35 through 40, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (As to Respondents Krebs and Diligent Asset Valuation-Failure to Reply
22 to the Specific Requirements as Outlined in a Cease and Desist Letter)

23 52. Respondents are subject to disciplinary action under Business and Professions Code
24 section 11328.1, in that they were given 30 days to respond to the specific requirements as
25 outlined in a cease and desist letter. BREa received an executed certified domestic return receipt
26 confirming delivery of the letter; however, Respondents failed to reply, as detailed above in
27 paragraph 38.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (As to Respondents Krebs and Diligent Asset Valuations- Failure to Demonstrate the
3 Required Qualifications of Honesty, Candor, Integrity and Trustworthiness)

4 53. Respondents are subject to disciplinary action under California Code of Regulations
5 title 10, sections 3702(a)(1),(2) and (3) in that they repeatedly exhibited dishonest and
6 untrustworthy conduct when they continuously failed to pay engaged appraisers for appraisal
7 reports between 2011 through 2014, causing financial injury to the engaged appraisers, as detailed
8 above in paragraphs 19 through 40.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 (As to Respondents Krebs and DAV- Committing Acts
11 Involving Dishonesty, Fraud or Deceit)

12 54. Respondents Krebs and DAV are subject to disciplinary action under California Code
13 of regulations sections 3702(a)(1)(2) and (3), and 3721(a)(2), in that they committed acts
14 involving dishonesty, fraud and deceit by habitually and continually failing to pay for appraisal
15 reports between 2011 through 2014. Respondents' dishonest conduct caused financial injury to
16 the engaged appraisers, as detailed above in paragraphs 19 through 40.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 (As to Respondent Krebs- Providing False Information to State Regulatory Agencies)

19 55. Respondent is subject to disciplinary action under California Code of Regulations,
20 title 10, sections 3702(a)(1) and (3) and 3721(a)(2) and (7), in that he failed to facilitate the
21 investigation of complaints against him by two state regulatory agencies when he failed to
22 respond, and/or provided false information, as detailed above in paragraphs 35 through 43.

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20 DISCIPLINARY CONSIDERATIONS

3 56. On or about November 24, 1999, Respondent Krebs was disciplined by BREa upon
4 the issuance of a citation. The citation required Respondent Krebs to pay a \$1,000.00 fine, take a
5 15-hour Uniform Standards of Professional Appraisal Practice course, and 20 hours of basic
6 education courses. The violations included certifying an inspection of a subject property when no
7 inspection was made, failure to recognize significant real property appraisal assistance, and
8 omission of more appropriate comparable sales available in the subject neighborhood without
9 justification or explanation.

10 57.0 The State of Washington Department of Licensing Business and Professions Division
11 signed a Default Permanent Cease and Desist Order on May 6, 2015, for Case No. 2013-09-0024-
12 00AMC. It was ordered that Respondent DAV permanently cease and desist from engaging in
13 appraisal management services in the State of Washington pursuant to RCW 18.235.150.
14 Respondent failed to provide these records to the investigator.

15 58. The State of Oregon Appraiser Certification and Licensure Board signed a Default
16 Final Order and Civil Penalty on April 25, 2016, for Case No. 14-2168. It was found that
17 Respondents Krebs and DAV engaged in not less than two unregistered appraisal management
18 activities in violation of ORS 671.205(1), and a civil penalty in the amount of 2 X \$500.00
19 (\$1,000.00 total) was imposed jointly and severally upon Respondents Krebs and DAV pursuant
20 to ORS 674.995 and OAR 161-006-0175.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Chief of the Bureau of Real Estate Appraisers issue a decision:

24 1.0 Revoking or suspending Real Estate Appraiser License Number 023309, issued to
25 Otto F. Krebs;

26 2.0 Ordering Otto F. Krebs to pay the Bureau of Real Estate Appraisers the reasonable
27 costs of the investigation and enforcement of this case, pursuant to Business and Professions
28 Code section 11409;

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1 3. Ordering Otto F. Krebs to pay the Bureau of Real Estate Appraisers a fine in the
2 amount of \$20,000.00 pursuant to Business and Professions Code section 11316; and

3 4. Taking such other and further action as deemed necessary and proper.
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7 DATED: 6/21/16

Original Signed

ELIZABETH SEATERS
Chief of Enforcement
Bureau of Real Estate Appraisers
Department of Consumer Affairs
State of California
Complainant

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