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

In the Matter of the Accusation Against: **ANTHEM MARKETING SERVICES, INC., DOING BUSINESS AS APEX APPRAISALS** **10900 E. 183rd Street, #285C** **Cerritos, CA 90703** **California Appraisal Management Company Registration No. 3005204,** Respondent.	Case No. L20200626-03 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 27, 2020, Aaron Klinger, in his official capacity as the Chief of Enforcement of the Bureau of Real Estate Appraisers ("Complainant"), filed Accusation No. L20200626-03 against Respondent Anthem Marketing Services, Inc., doing business as Apex Appraisals ("Respondent") before the Bureau of Real Estate Appraisers. (Accusation attached as **Exhibit A**.)

2. On or about April 10, 2018, the Bureau of Real Estate Appraisers (formerly Office of Real Estate Appraisers, referred to herein as the "Bureau" or "BREA") issued California Appraisal Management Company ("AMC") Registration Number 3005204 to Respondent. The

AMC Registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 9, 2022, unless renewed. Vincent D. Martinez is Respondent's Designated Officer and the only designated Controlling Person.

3. On or about July 30, 2020, Respondent was served by Certified and First Class Mail copies of the Accusation No. L20200626-03, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Title 10, California Code of Regulations, section 3527, is required to be reported and maintained with the Bureau. Respondent's address of record was and is: 10900 E. 183rd Street, #285C, Cerritos, CA 90703.

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

5. Government Code section 11506(c) states, in pertinent part:

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

6. The Bureau takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon it of the Accusation, and therefore waived its right to a hearing on the merits of Accusation No. L20200626-03.

7. California Government Code section 11520(a) states, in pertinent part:

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

8. Pursuant to its authority under Government Code section 11520, the Bureau finds Respondent is in default. The Bureau will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Bureau's offices regarding the allegations contained in Accusation No. L20200626-03,

finds that the charges and allegations in Accusation No. L20200626-03, are separately and severally, found to be true and correct by clear and convincing evidence.

9. The Bureau finds that the actual costs for Investigation and Enforcement are $2,170.00 as of August 17, 2020.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Anthem Marketing Services, Inc., doing business as Apex Appraisals has subjected its Appraisal Management Company Registration Number 3005204 to discipline.

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

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

a. California Code of Regulations, title 10, section 3721, subdivision (a)(7), in conjunction with Business and Professions Code section 11345.05 and California Code of Regulations, title 10, section 3527, subdivision (b), in that Respondent failed to file an Appraisal Management Company Change Notification and Miscellaneous Requests Form REA 5011 (Rev. 1/1/17), indicating that Meriam Martinez was a controlling person of Respondent within ten days of becoming aware of this change.

b. California Code of Regulations, title 10, section 3721, subdivision (a)(7), since Respondent failed to provide information and documents to the Bureau that the Bureau requested as part of its audit of Respondent. As of the date of the accusation, Respondent has not responded to the Bureau's written inquiries and has not provided the Bureau with copies of the material as requested.

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ORDER

IT IS SO ORDERED that Appraisal Management Company Registration Number 3005204, issued to Respondent Anthem Marketing Services, Inc., doing business as Apex Appraisals, is revoked.

Cost Recovery. After reviewing its files and records, the Bureau finds that the reasonable cost of investigation and enforcement of Accusation No. L20200626-03 is $2,170.00. Pursuant to Business and Professions Code section 11409, subdivision (a), the Bureau orders that Respondent pay the full investigation and enforcements costs to the Bureau. However, the Bureau will forgo its right to recover these costs at this time. Should Respondent apply in the future for any license issued by the Bureau, said costs of investigation and enforcement will become due and payable before any new or reinstated license will be issued to Respondent.

Administrative Fine. Pursuant to Business and Professions Code section 11316, Respondent Anthem Marketing Services, Inc., doing business as Apex Appraisals, is ordered to pay the Bureau of Real Estate Appraisers an administrative fine in the amount of $10,000.00. If the fine is not paid, the full amount of the assessed fine shall be added to any fee for reinstatement of a license.

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

This Decision shall become effective on September 5, 2020.

It is so ORDERED August 21, 2020

ORIGINAL SIGNED

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

63512545.DOCX
DOJ Matter ID: SF2020400649
Attachment: Exhibit A: Accusation

Exhibit A

Accusation

(ANTHEM MARKETING SERVICES, INC., DBA APEX APPRAISALS)

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BEFORE THE
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In the Matter of the Accusation Against: **ANTHEM MARKETING SERVICES, INC., DOING BUSINESS AS APEX APPRAISALS** **10900 E. 183rd Street, #285C** **Cerritos, CA 90703** **California Appraisal Management Company Registration No. 3005204,** Respondent.	Case No. L20200626-03 **ACCUSATION**

PARTIES

1. Aaron Klinger, acting on behalf of the Bureau of Real Estate Appraisers ("Complainant"), Department of Consumer Affairs, brings this Accusation solely in his official capacity as Chief of Enforcement for Complainant.

2. On or about April 10, 2018, the Bureau of Real Estate Appraisers (formerly Office of Real Estate Appraisers, referred to herein as the "Bureau" or "BREA") issued California Appraisal Management Company ("AMC") Registration Number 3005204 to Respondent Anthem Marketing Services, Inc., doing business as Apex Appraisals. The AMC Registration

was in full force and effect at all times relevant to the charges brought herein and will expire on April 9, 2022, unless renewed. Vincent D. Martinez is Respondent's Designated Officer and the only designated Controlling Person.

JURISDICTION

3. This Accusation is brought before the Bureau for the Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 22 states:

"Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

5. Section 11301 states:

"(a)(1) There is hereby created within the Department of Consumer Affairs a Bureau of Real Estate Appraisers to administer and enforce this part.

(2) Notwithstanding any other law, the powers and duties of the bureau, as set forth in this part, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this part were scheduled to be repealed as of January 1, 2021.

(b) Whenever the term 'Office of Real Estate Appraisers' appears in any other law, it means the 'Bureau of Real Estate Appraisers.'"

6. Section 11313 states:

"The bureau is under the supervision and control of the Director of Consumer Affairs. The duty of enforcing and administering this part is vested in the chief, and he or she is responsible to the Director of Consumer Affairs therefor. The chief shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations adopted by the

former Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its licensees."

7. Section 11314 states, in pertinent part: "The office is required to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest. . . . The office may additionally include in its regulations requirements for the registration of appraisal management companies consistent with this part."

8. Section 11315.3 states:

"The suspension, expiration, or forfeiture by operation of law of a license or certificate of registration issued by the office, or its suspension, forfeiture, or cancellation by order of the office or by order of a court of law, or its surrender without the written consent of the office, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the office of its authority to institute or continue a disciplinary proceeding against the licensee or registrant upon any ground provided by law or to enter an order suspending or revoking the license or certificate of registration, or otherwise taking disciplinary action against the licensee or registrant on any such ground."

STATUTES

9. Section 11302 states, in pertinent part:

"For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

". . . .

"(d) (1) 'Appraisal management company' means any person or entity that satisfies all of the following conditions:

"(A) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates.

"(B) Provides those services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations.

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

". . . .

"(e) 'Appraisal management services' means one or more of the following:

"(1) Recruiting, selecting, and retaining appraisers.

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

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

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

". . . .

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

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

"(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

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

". . . .

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

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

". . . .

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

10. Section 11328.1 states, in pertinent part:

"If the director has a reasonable belief that a registrant, or person or entity acting in a capacity that requires a certificate of registration, has engaged in activities prohibited under this part, he or she may submit a written request to the registrant, person, or entity, requesting copies of written material related to his or her investigation. Any registrant, person, or entity receiving a written request from the director for information related to an investigation of prohibited activities shall submit that information to the director or the office within a reasonable period of time, which shall be specified by the director in his or her written request. Any material submitted shall be kept confidential by the director and the office."

11. Section 11345 states, in pertinent part:

"The director shall adopt regulations governing the process and procedure of applying for registration as an appraisal management company. Applications for a certificate of registration shall require, at a minimum, all of the following:

". . . .

"(d) The name, address, and contact information for each controlling person of the applicant who has operational authority to direct the management of, and establish policies for, the applicant."

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12. Section 11345.05 states, in pertinent part:

"(a) A registrant shall notify the office within 10 business days, on a form developed by the office, of any additions, deletions, or changes in the names, addresses, and contact information for the individuals listed on its application.

"(b) A registrant shall correct information on file with the office within 10 business days of discovering an error in that information, and shall not be subject to disciplinary action by the director or the office for incorrect information the registrant corrects within 10 business days of its discovery as being inaccurate."

REGULATORY PROVISIONS

13. California Code of Regulations, title 10, section 3527 states, in pertinent part:

". . . .

"(b) All holders of a Certificate of Registration, or a Controlling person for an Appraisal Management Company shall submit written notice to BREA of any change to the following within 10 days on the Appraisal Management Company Change Notification and Miscellaneous Requests Form REA 5011 (Rev. 1/1/17), which is herein incorporated by reference:

"(1) Name Change (addition or deletion of a Controlling Person);

"(2) Residence telephone number;

"(3) Business telephone number;

"(4) Business name; or

"(5) Mailing address.

"Any Form REA 5011 (Rev. 1/1/17) submitted to BREA must be signed by the Designated Officer of the Appraisal Management Company. . . ."

14. California Code of Regulations, title 10, section 3529 states:

"The Bureau may review and audit the records of applicants, licensees, education providers, registered Appraisal Management Companies and persons or entities acting in a capacity that requires a Certificate of Registration, to determine compliance with the requirements of this chapter and state and federal law. Applicants, licensees, educational providers, and registered Appraisal Management Companies shall cooperate with the Bureau in the conduct of such audits

and provide access during normal business hours to records and such information as the Bureau deems reasonably necessary for the completion of the audit."

15. California Code of Regulations, title 10, section 3721 states:

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

". . . .

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

FINE PROVISIONS

16. Business and Professions Code section 11315, states in pertinent part:

"(a) The director may issue to a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation, a citation that may contain an order to pay an administrative fine assessed by the office if the person or entity is in violation of this part or any regulations adopted to carry out its purposes.

". . . .

"(e) In no event shall an administrative fine assessed by the office by citation or order exceed ten thousand dollars ($10,000) per violation. In assessing a fine, the office shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the person who committed the violation, and the history of previous violations. . . ."

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17. Business and Professions Code section 11316, subdivision (a) states:

"(a) The director may assess a fine against a licensee, applicant for licensure, person who acts in a capacity that requires a license under this part, course provider, applicant for course provider accreditation, or a person who, or entity that, acts in a capacity that requires course provider accreditation for violation of this part or any regulations adopted to carry out its purposes."

18. California Code of Regulations, title 10, section 3724 states:

"(a) Where the Chief has verified a notice of acts or omissions by a licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration which constitute a violation of statute, regulation or USPAP, he/she may issue a citation in writing which describes with particularity the nature of the violation and including specific reference to the law, regulation or professional practice standard determined to have been violated. The citation may include a notice of abatement fixing a reasonable period of time for abatement of the violation, assessment of private or public reproval, suspension, revocation, restriction of license, fine or any combination of these actions.

"(b) Fines shall not exceed $10,000 per incident. In assessing a fine, the Chief shall give due consideration to:

"(1) The gravity of the violation;

"(2) The good or bad faith of the person cited;

"(3) The history of previous violations;

"(4) Evidence that the violation was willful;

"(5) The extent to which the cited person has cooperated with the Office;

"(6) The extent to which the cited person has mitigated or attempted to mitigate any loss or potential loss caused by the violation; and

"(7) Such other matters as the Chief determines are in the interest of justice.

"(c) Citations issued hereunder shall be subject to review as provided in subsection (b) of Section 3721."

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COST RECOVERY PROVISION

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

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

FACTS

20. On or about June 30, 2017, Respondent filed its initial Statement of Information with the California Secretary of State. On this 2017 Statement of Information, Respondent identified Vincent Martinez as Respondent's Chief Executive Officer, Secretary, and Chief Financial Officer. Vincent Martinez is also identified as Respondent's sole director. The 2017 Statement of Information did not reference or identify Meriam Martinez as an officer or director of Respondent.

21. On or about April 9, 2018, Respondent filed an application with the Bureau for an AMC Registration. At the time the Bureau approved the application and issued the registration, Respondent only identified Vincent D. Martinez as a controlling person of Respondent.[1] The application did not reference or identify Meriam Martinez as a controlling person of Respondent.

22. On or about October 31, 2019, Respondent filed a Statement of Information with the California Secretary of State. This 2019 Statement of Information indicates there has been no change since the last Statement of Information Respondent filed with California's Secretary of State (the 2017 Statement of Information). The 2019 Statement of Information is signed by Meriam Martinez as Secretary of Respondent.

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[1] Respondent initially identified a different individual as a controlling person. However, on April 9, 2018, before the Bureau issued a registration to Respondent, Respondent filed a form to remove that individual as a controlling person and to add Vincent D. Martinez as the sole controlling person of Respondent.

23. On or about April 13, 2020, Respondent filed an application with the Bureau to renew its AMC Registration. This application for renewal did not reference or identify Meriam Martinez as a controlling person of Respondent. Respondent only identified Vincent Martinez as the sole controlling person on this application for renewal.

24. On April 13, 2020, the Bureau sent Respondent a letter asking Respondent to complete and submit the following documents:

i. An Appraisal Management Company (AMC) Change of Notification and Miscellaneous Requests form (REA 5011) to add Meriam Martinez as a controlling person;

ii. An Appraisal Management Company (AMC) Controlling Person Application (REA 5002) for Meriam Martinez;

iii. A completed Request for Live Scan Service (BCII 8016) form; and

iv. A payment in the amount of $90.00.

This letter stated, "[i]f [Respondent] submits the requested documents within 10 business days, it shall not be subject to disciplinary action for failing to correct the information." Respondent never responded to this letter.

25. On or about May 1, 2020, the Bureau sent Respondent an audit letter requesting documents. The Bureau also informed Respondent that, "[f]ailure to provide the Bureau with the requested information by June 1, 2020, will result in the Bureau seeking disciplinary action against [Respondent]." Respondent never responded to this letter.

26. On or about July 6, 2020, Respondent filed a Statement of Information with the California Secretary of State. On this 2020 Statement of Information Respondent identified Vincent Martinez as Respondent's Chief Executive Officer and Chief Financial Officer, and Respondent identified Meriam Martinez as Respondent's Secretary. Vincent Martinez is also identified as Respondent's sole director. The 2020 Statement of Information is signed by Meriam Martinez.

27. As of the date of this accusation, Respondent has not notified the Bureau that Meriam Martinez is a controlling person of Respondent. Respondent has also failed to cooperate with the

Bureau's audit of Respondent by failing to submit information and documents requested by the Bureau.

FIRST CAUSE FOR DISCIPLINE

(FAILURE TO INFORM THE BUREAU OF NEW CONTROLLING PERSON)

28. Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721, subdivision (a)(7), in conjunction with Business and Professions Code section 11345.05 and California Code of Regulations, title 10, section 3527, subdivision (b), since Respondent failed to file an Appraisal Management Company Change Notification and Miscellaneous Requests Form REA 5011 (Rev. 1/1/17), indicating that Meriam Martinez was a controlling person of Respondent within ten days of becoming aware of this change. The Bureau made Respondent aware of this deficiency in letters dated April 13, 2020, and May 1, 2020. Respondent failed to cure this deficiency within ten days of becoming aware of inaccuracies in the information Respondent provided to the Bureau. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 20-27, inclusive, as though fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(FAILURE TO COOPERATE WITH THE BUREAU'S AUDIT)

29. Respondent is subject to disciplinary action under California Code of Regulations, title 10, section 3721, subdivision (a)(7), in conjunction with California Code of Regulations, title 10, section 3529, since Respondent failed to provide information and documents to the Bureau that the Bureau requested as part of its audit of Respondent. The Bureau mailed the audit letter to Respondent on May 1, 2020, requesting information and documents, as fully outlined above. Respondent failed to respond to the Bureau's request for information and documents. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 20-27, inclusive, as though fully set forth herein.

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PRAYER

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

1. Revoking or suspending California Appraisal Management Company Registration Number 3005204, issued to Anthem Marketing Services, Inc., doing business as Apex Appraisals;

2. Ordering Anthem Marketing Services, Inc., doing business as Apex Appraisals to pay the Bureau of Real Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 11409;

3. Ordering Anthem Marketing Services, Inc., doing business as Apex Appraisals to pay the Bureau of Real Estate Appraisers a fine in the amount of $10,000.00 pursuant to Business and Professions Code section 11316; and

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

DATED: 7/27/2020

ORIGINAL SIGNED

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

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