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

10 In the Matter of the Accusation Against:

11 CHARLES D. BAILEY  
421 East Strawberry Drive  
12 Mill Valley, CA 94941

13 Real Estate Appraiser License No. AG007052

14 Respondent.

Case Nos. C 030611-01, C 040312-01  
and C 040322-02

**ACCUSATION**

15  
16 Complainant alleges:

17 PARTIES

18 1. Greg Harding (Complainant) brings this Accusation solely in his official  
19 capacity as the Chief of Licensing and Enforcement of the Office of Real Estate Appraisers.

20 2. On or about May 8, 1992, the Director of the Office of Real Estate  
21 Appraisers issued Real Estate Appraiser License Number AG007052 to Charles D. Bailey  
22 (Respondent). The Real Estate Appraiser License was in full force and effect at all times  
23 relevant to the charges brought herein and will expire on February 23, 2007, unless renewed.

24  
25 JURISDICTION

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

1 otherwise indicated.

2 4. Business and Professions Code section 11313 states, in pertinent part:

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

9 5. Business and Professions Code section 11319 states, in pertinent part:

10 "Notwithstanding any other provision of this code, the Uniform Standards of  
11 Professional Appraisal Practice constitute the minimum standard of conduct and performance for  
12 a licensee in any work or service performed that is addressed by those standards. . . ."

13 6. California Code of Regulations, title 10, section 3701 states:

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

18 7. California Code of Regulations, title 10, section 3721 states, in pertinent  
19 part:

20 "(a) The Director may issue a citation, order of abatement, assess a fine or private  
21 or public reproof, suspend or revoke any license, and/or may deny the issuance or renewal of a  
22 license of any person who has:

23 . . .

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

26 . . .

27 "(6) Violated any provision of USPAP;

28 "(7) Violated any provision of the Real Estate Appraisers' Licensing and

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

4 . . .

5 "(b) Before issuing any private or public reproof or denying, suspending, or  
6 revoking any license issued or issuable under the provisions of the Real Estate Appraisers  
7 Licensing and Certification Law or these regulations, the Office shall proceed as prescribed by  
8 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
9 Government Code (the Administrative Procedure Act) and the Office shall have all the powers  
10 granted therein.

11 . . . "

12 8. Business and Professions Code section 11409, subdivision (a) states, in  
13 pertinent part:

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

18 9. USPAP Standard 1 states:

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

22 10. USPAP Standards Rule 1-1 states, in pertinent part:

23 "In developing a real property appraisal, an appraiser must:

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

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

28 "(c) not render appraisal services in a careless or negligent manner, such as by

1 making a series of errors that, although individually might not significantly affect the results of  
2 an appraisal, in the aggregate affect the credibility of those results."

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

4 "In developing a real property appraisal, an appraiser must:

5 . . .

6 "(e) identify the characteristics of the property that are relevant to the purpose  
7 and intended use of the appraisal, including:

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

9 . . .

10 "(f) identify the scope of work necessary to complete the assignment;

11 . . . "

12 12. USPAP Standards Rule 1-3 states:

13 "When the value opinion to be developed is a market value, and given the scope  
14 of work identified in accordance with Standards Rule 1-2(f), an appraiser must:

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

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

19 13. USPAP Standard Rule 1-4 states, in pertinent part:

20 "In developing a real property appraisal, an appraiser must collect, verify, and  
21 analyze all information applicable to the appraisal problem, given the scope of the work  
22 identified in accordance with Standards Rule 1-2(f).

23 "(a) When a sales comparison approach is applicable, an appraiser must analyze  
24 such comparable sales data as are available to indicate a value conclusion.

25 . . .

26 "(c) When an income approach is applicable, an appraiser must:

27 "(i) analyze such comparable rental data as are available and/or the potential  
28 earnings capacity of the property to estimate the gross income potential of the property;



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

4                   (a) The content of a Self-Contained Appraisal Report must be consistent with the  
5 intended uses of the appraisal and, at a minimum:

6                   "(i) state the identity of the client and any intended users, by name or type;

7                   "(ii) state the intended use of the appraisal;

8                   "(iii) describe information sufficient to identify the real estate involved in the  
9 appraisal, including the physical and economic property characteristics relevant to the  
10 assignment;

11                   "(iv) state the real property interest appraised;

12                   "(v) state the purpose of the appraisal, including the type and definition of value  
13 and its source;

14                   "(vi) state the effective date of the appraisal and the date of the report;

15                   "(vii) describe sufficient information to disclose to the client and any intended  
16 users of the appraisal the scope of work used to develop the appraisal;

17                   "(viii) state all assumptions, hypothetical conditions, and limiting conditions that  
18 affected the analyses, opinions, and conclusions.

19                   "(ix) describe the information analyzed, the appraisal procedures followed, and  
20 the reasoning that supports the analyses, opinions, and conclusions;

21                   "(x) state the use of the real estate existing as of the date of value and the use of  
22 the real estate reflected in the appraisal; and, when the purpose of the assignment is market  
23 value, describe the support and rationale for the appraiser's opinion of the highest and best use of  
24 the real estate;

25                   "(xi) state and explain any permitted departures from specific requirements of  
26 STANDARD 1 and the reason for excluding any of the usual valuation approaches;

27                   "(xii) include a signed certification in accordance with Standards Rule 2-3.  
28



1 characteristics such as race, color, religion, national origin, gender, marital status, familial status,  
2 age, receipt of public assistance income, handicap, or an unsupported conclusion that  
3 homogeneity of such characteristics is necessary to maximize value.

4 . . .”

5 19. The USPAP Competency Rule states, in pertinent part:

6 “Prior to accepting an assignment or entering into an agreement to perform any  
7 assignment, an appraiser must properly identify the problem to be addressed and have the  
8 knowledge and experience to complete the assignment competently; or alternatively, must:

9 “1. disclose the lack of knowledge and/or experience to the client before  
10 accepting the assignment;

11 “2. take all steps necessary or appropriate to complete the assignment  
12 competently; and

13 “3. describe the lack of knowledge and/or experience and the steps taken to  
14 complete the assignment competently in the report.”

15 20. The USPAP Competency Rule states, in pertinent part:

16 “This Rule permits exceptions from sections of the Uniform Standards that are  
17 classified as specific requirements rather than binding requirements. The burden of proof is on  
18 the appraiser to decide before accepting an assignment and invoking this Rule that the scope of  
19 the work applied will result in opinions or conclusions that are credible. The burden of  
20 disclosure is also on the appraiser to report any departures from specific requirements.

21 “An appraiser may enter into an agreement to perform an assignment in which the  
22 scope of work is less than, or different from, the work that would otherwise be required by  
23 specific requirements, provided that prior to entering into such an agreement:

24 “1. the appraiser has determined that the appraisal process to be performed is not  
25 so limited that the results of the assignment are no longer credible;

26 “2. the appraiser has advised the client that the assignment calls for something  
27 less than, or different from, the work required by the specific requirements and that the report  
28 will clearly identify and explain the departure(s); and





1 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(a) and 1-3(a), in  
2 that he failed to adequately describe the subject market in his November 26, 2003 report by  
3 failing to adequately discuss land use issues in the area, governmental regulations, and by failing  
4 to portray that the projected use of the subject is highly dependent upon unidentified projects.

5           31. Respondent is subject to disciplinary action under California Code of  
6 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(b), 1-2(e)(i) and  
7 2-1(b), in that he failed to adequately discuss mitigation banking operations and the regulatory  
8 structure that controls the market.

9           32. Respondent is subject to disciplinary action under California Code of  
10 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rule 1-4(c)(i) and the  
11 Conduct Section of the Ethics Rule, in that he based cash flows on unsupported projections.

12           33. Respondent is subject to disciplinary action under California Code of  
13 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(b) and 2-2(a)(ix)  
14 in that he failed to adequately discuss the restoration process and its associated risks, the process  
15 of establishing a mitigation bank and its inherent risks, including the fact that most mitigation  
16 banks fail.

17           34. Respondent is subject to disciplinary action under California Code of  
18 Regulations, title 10, sections 3701 and 3721 and the Conduct section of the Ethics Rule in that  
19 he failed to adequately discuss the scope of his work in the preparation of the valuation problem,  
20 failed to use consulting reports in an appropriate manner, failed to define the roles of the  
21 consultants, failed to consider economic factors in the valuation, and failed to identify what  
22 information was not available to him and what efforts he made to obtain the information.

23           35. Respondent is subject to disciplinary action under California Code of  
24 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-3(b) and 2-1(a) in  
25 that he failed to value the subject property in a credible manner, and failed to support his highest  
26 and best use conclusion.

27           36. Respondent is subject to disciplinary action under California Code of  
28 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-4(a) and 2-1(b) in

1 that he failed to describe the sales accurately in his report; Respondent's descriptions do not state  
2 the amount of credits sold, the number of credits established, or prices; and Respondent did not  
3 report restoration costs or time to restore.

4 37. Respondent is subject to disciplinary action under California Code of  
5 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(a),(b), 1-4(c) and  
6 2-2(b) in that he failed to value the subject property in an appropriate manner, by discounting  
7 negative cash flows, which is inconsistent with market practice; Respondent utilized a discount  
8 rate with inappropriate support.

9 38. Respondent is subject to disciplinary action under California Code of  
10 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rule 1-1(b) and the  
11 Competency Rule in that he failed to recognize, report, and analyze the assumptions and  
12 constraints under which the consultant reports were prepared.

### 13 THIRD CAUSE FOR DISCIPLINE

14 (DECEMBER 7, 2000 APPRAISAL OF CARGILL SALT PROPERTIES)

15 (Salt Production)

16 39. Respondent is subject to disciplinary action under California Code of  
17 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(b), 1-2(e)(1), and  
18 2-1(b) in that he failed to adequately describe the current use of the subject property, by failing  
19 to adequately discuss the types of salt produced and the by-products.

20 40. Respondent is subject to disciplinary action under California Code of  
21 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(b), 2-1(a), and 2-  
22 1(b) in that he failed to state which acres were in salt production, and which acres were not  
23 productive. The report identifies 19,027 acres producing salt, but fails to identify the location of  
24 these acres, and fails to state whether they include the acres being appraised or other acres.

25 41. Respondent is subject to disciplinary action under California Code of  
26 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 1-1(b), 1-2(e)(i), 2-  
27 1(a) and 2-1(b) in that he failed to discuss the market for salt, including production trends,  
28 competition, demand and pricing.









1 Competency Rule, in that he failed to adequately describe the scope of his work when he  
2 engaged consulting reports and failed to delineate the scope of his involvement, the scope of the  
3 consultant's involvement, assumptions made regarding the consultant's work and what steps  
4 Respondent took to verify information within the consultant's report, and what information  
5 could not be verified.

6 62. Respondent is subject to disciplinary action under California Code of  
7 Regulations, title 10, sections 3701 and 3721 and USPAP Standards Rules 2-2(a)(ix) and the  
8 Conduct Section of the Ethics Rule, in that he failed to render appraisal services independently  
9 and objectively. The report indicates that the property was appraised as-is, when it was not. The  
10 valuation is predicated on land use changes that are not adequately supported.

11 PRAYER

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

- 15 1. Revoking or suspending Real Estate Appraiser License Number  
16 AG007052, issued to Charles D. Bailey.
- 17 2. Ordering Charles D. Bailey to pay the Director of the Office of Real  
18 Estate Appraisers the reasonable costs of the investigation and enforcement of this case, pursuant  
19 to Business and Professions Code section 11409;
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: \_\_\_\_\_

22  
23  
24 \_\_\_\_\_  
GREG HARDING  
25 Chief of Licensing and Enforcement  
Office of Real Estate Appraisers  
26 State of California  
Complainant