



by Robert M. Weinstock

Surviving the Appraiser Shortage

Attorneys who need to meet minimum appraisal and appraiser requirements in their practices have various options

MANY individuals, businesses, and lawyers in California require real property appraisals for matters such as refinancing, real estate transactions, divorce, estate tax, and eminent domain actions. However, there is a shortage of real estate appraisers¹ in California and throughout the United States. California's Bureau of Real Estate Appraisers (BREA) has noted a 50-percent decline in the number of licensed appraisers in California over the past seven years.² At present, there are 3,300 commercially licensed real estate appraisers in California. The state currently is issuing approximately 360 new licenses annually in California. Almost two-thirds of the appraisers in California are over age 50 and many are contemplating retirement.³ At the same time, the number of owner households is

expected to increase by 1.3 million per year.⁴

Industry experts identify several reasons for the decline in the number of appraisers.⁵ Stringent new education requirements that went into effect in 2015,⁶ a large increase in the required number of closely monitored experience hours, and lower fees have made real property appraising a less attractive profession. In addition, while the number of appraisers is declining, the number of complaints filed against appraisers by the general public is increasing exponentially.⁷

Legally, what is an appraisal? Who is an appraiser? When is an appraisal required? The answers depend on the situation and type of assignment for which the appraisal is being used. Attorneys should be aware of who can perform appraisals, who can testify as to value, and what an appraisal must con-

tain. Attorneys also should be aware of the various alternatives to formal appraisals.

Recently, it has been codified⁸ that certain transactions involving real property may proceed without obtaining a formal appraisal. This position is in direct contrast to that made by governmental agencies a few years ago when the issue focused on greater standards and more thorough accountability.⁹

While appraisal standards are not new, they came to the forefront as a result of the savings and loan crisis of the 1980s. Appraisers were said to be part of that scandal since many appraisals were found to be inad-

Robert M. Weinstock is a licensed real property appraiser, certified business appraiser, attorney, and managing member of Strategic Valuation Group, LLC.

equate or unfairly biased.¹⁰ In April 1989, as a result of the Financial Institutions Reform Recovery and Enforcement Act (FIRREA), uniform standards for appraisers were formalized.¹¹ These standards were to be enforced by each state's real estate appraiser regulatory agency.

As a direct result of FIRREA, government and nongovernment agencies attempted to determine what these standards were and to define the terms "appraisal" and "appraiser."¹² However, despite numerous attempts the answer is still not clear. Further, there is much inconsistency in application. (See chart.)

The initial goal was to make appraisals "independent, consistent and objective."¹³ The implementation of new standards and licensing requirements, however, had the indirect effect of reducing the number of appraisers. As a result of large barriers to entry, competition from nonappraiser alternatives, low fees, and other factors, the number of appraisers has steadily decreased. In 2015, for example, only 55 new trainee appraiser applications were filed for the entire state of Illinois.¹⁴ As a result of these new standards, which all states have adopted, the number of appraisers nationwide has declined substantially and will continue to decline.

Options for Attorneys

Attorneys who need to meet minimum appraisal and appraiser requirements for their legal work have several options. Real estate brokers, for example, frequently give broker opinions in estate planning matters. Accountants typically provide valuations and testimony in family law matters. Sometimes property owners will arrive at their own values. In addition, the word "evaluation" (which is different from an appraisal) has come into play. An evaluation is not required to comply with the qualifications and reporting standards of appraisals under certain circumstances. (See chart.) These informal methods of appraisal may or may not be acceptable.

California is not a mandatory license state, which means certain types of valuations can be performed by nonlicensed individuals. Other times, performing an appraisal without a state license can lead to a fine and imprisonment.¹⁵ The line can be blurred at times. In California, a licensed appraiser is required in any transaction in which a federal financial institution's regulatory agency is involved. Specifically, Business and Professions Code Section 11320 states:

No person shall engage in federally related real estate appraisal activity governed by this part...or any title designation or abbreviation as a licensed appraiser in this state without first obtaining a license as defined in Section 11302. Any person who willfully vio-

lates this provision is guilty of a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

The term "federally related real estate activity" has been defined to mean any real estate-related financial transaction in which a federal financial institution's regulatory agency engages, contracts, or regulates, and which requires the services of a state-licensed real estate appraiser.¹⁶

What about the other reasons for an appraisal such as a divorce proceeding, a corporate dissolution, or an estate tax return? The answer is broadly defined in the Uniform Standards of Professional Appraisal Practice (USPAP).¹⁷ Again, these are the rules that were promulgated in an attempt at standardization. According to USPAP, an appraiser is defined as "one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective."¹⁸ The definition says nothing about requiring a license but gives a much broader definition as "... one who is expected to perform."¹⁹

In California, the regulations for licensing of appraisers are found in Business and Professions Code Section 11300 et seq. However, according to Section 11319, the uniform standards are intended to be the "minimum standard of conduct and performance" for appraisers.²⁰ This is not the case in that USPAP defines an appraiser as "one who performs valuation services"²¹ while the statute defines it solely as someone who performs appraisals in a "federally related transaction."²²

Another basic legal question concerns what constitutes an appraisal? The USPAP and the statute conflict since the uniform standards define an appraisal as "the act or process of developing an opinion of value,"²³ whereas Section 11302 states that an appraisal means a "written statement independently and impar-

tially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information." Further, Section 11302 states that an appraisal "shall, at a minimum, meet the requirements of USPAP." However, because of its broad definitions, USPAP is essentially more restrictive than California law. This is the opposite of the intent of California law that intended for USPAP to be the minimum standard.²⁴ The statute defines an appraiser as one who prepares a "written statement" regarding value in a "federally related transaction."²⁵ However, this conflicts with USPAP which states that an appraiser is "anyone who performs valuation services."²⁶

Therefore, assuming clients have a need for an appraisal that is not a federally related transaction (e.g., one in which a federal financial institution is involved), what options do they have? The answer apparently depends on the context in which the appraisal is used. To reiterate, California's requirements for a licensed appraiser can be summarized by two points: 1) one that is in writing (oral valuations and testimony appear to be excluded) and 2) one in which a federal financial institution is somehow involved. However, what about appraisals not in writing and not for a federally related transaction?

Nonfederally Related Appraisals

The courts in California and the federal government have been forced to decide the question of who is qualified to evaluate real property and when an appraisal is required. One specific exception to appraisals is for broker opinions in which a person licensed to sell real property under the California Department of Real Estate provides an estimate of value.²⁷

Appraisal Licensing Requirements

PURPOSE	LEGAL REQUIREMENTS
Lending (under \$250,000)	No appraisal required ¹
Federal Bank	License probably required ²
Family Law	Anyone, including spouses ³
Eminent Domain	Property owners and qualified experts ⁴
Charitable Gifting—noncash over \$5,000	Licensed appraiser required ⁵
Probate	No license required, probate referee or conservator ⁶
Property Tax	Licensed or certified appraiser ⁷
Estate and Gift	No license required, minimum standards ⁸
Litigation Evidence	No license required, goes to weight ⁹

¹ 12 C.F.R. 323.3; ² 12 C.F.R. 323.4, BUS. & PROF. CODE §11300. ³ FAM. CODE §§1000, *et seq.* ⁴ GOV'T CODE §7260. ⁵ I.R.S. PUBL'N 561, 2006-46. ⁶ PROB. CODE §§8903, 2610. ⁷ REV. & TAX CODE §20802(a)(3). ⁸ See, e.g., Estate of Richmond, T.C.M. 2014-26. ⁹ EVID. CODE §813; Daubert v. Merrell Dow Pharms., 509 U.S. 579 (1993).

MCLE Test No. 261

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1. In California, a state-certified real estate appraiser's license is required to value real property.
True.
False.
2. The California decision in *Sargon Enterprises, Inc. v. University of Southern California* seeks to clarify the decision in *Daubert v. Merrell Dow Pharmaceuticals* with respect to who can provide expert witness testimony.
True.
False.
3. The definitions of appraisal and evaluation are synonymous.
True.
False.
4. The Federal Reserve Bank has recognized the appraiser shortage by allowing some types of bank loans to be made without getting formal appraisals.
True.
False.
5. Which of the following qualifications is required to appraise valuable artwork for the purpose of a charitable contribution?
 - a. Earning an appraisal designation from a recognized professional appraiser organization.
 - b. Regularly performing appraisals for which the individual receives compensation.
 - c. Meeting any other requirements as prescribed by law.
 - d. All of the above.
6. An unlicensed individual performing a written appraisal for the purpose of a large bank loan (e.g. over \$1 million) could be guilty of a crime.
True.
False.
7. Which of the following occupations would be legally qualified to provide an opinion as to the value of a single-family residence without violating state law?
 - a. Real estate broker.
 - b. Land surveyor.
 - c. Engineer.
 - d. Any of the above.
8. According to *Daubert v. Merrell Dow Pharmaceuticals*, only licensed appraisers may testify as to the value of a real property.
True.
False.
9. In an eminent domain matter, the court may accept a real estate broker's opinion as to the value of a taken property.
True.
False.
10. The Uniform Standards of Professional Appraisal Practice is a standard to which all licensed appraisers

- are required to adhere.
True.
False.
11. The need for formality of appraisers and appraisals came to the forefront as a result of the 1980s savings and loan crisis.
True.
False.
 12. Probate referees are permitted to value property for the purpose of a probate without obtaining a separate state license.
True.
False.
 13. The term "federally related real estate activity" is directed toward the valuation of government-owned real property.
True.
False.
 14. The future of appraisal is moving away from custom appraisals and toward computerized valuation models and/or appraisal management companies.
True.
False.
 15. According to the Uniform Standards of Professional Appraisal Practice, these standards apply only to licensed appraisers.
True.
False.
 16. The absence of a qualified appraisal in filing an estate tax return can result in penalties.
True.
False.
 17. An appraisal of real property for the purpose of a loan can be used in a divorce proceeding.
True.
False.
 18. In a family law matter, a spouse may testify as to the value of their real property.
True.
False.
 19. Valuations of real properties by persons located outside the United States may not be used since no one personally inspected the property.
True.
False.
 20. The value of a property as determined by Zillow or Trulia may not be entered into evidence in a civil litigation case since it is not considered an appraisal.
True.
False.



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10. True False
11. True False
12. True False
13. True False
14. True False
15. True False
16. True False
17. True False
18. True False
19. True False
20. True False

Specifically, the law states that the term “appraisal” does not “include an opinion given by a real estate sales licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required.”²⁸ Thus, an exception to the Business and Professions Code requiring appraisers to be licensed has been carved out in certain circumstances.

The California Evidence Code generically discusses the issue of expert opinions. It states:

If a witness is testifying as an expert, his testimony in the form of an opinion is limited to such an opinion as is: (a) Related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact; and (b) Based on matter (including his special knowledge, skill, experience, training, and education) perceived by or personally known to the witness or made known to him at or before the hearing....²⁹

The issue of whether or not a valuation opinion is admissible is of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates, unless an expert is precluded by law from using such matter as a basis for his opinion.³⁰ *Daubert v. Merrell Dow Pharmaceuticals* clarified Federal Rules of Evidence Section 720 and stated that the judge is the gatekeeper as to expert witness testimony.³¹ In an unpublished case, *Johnson v. Dawkins*, the court stated that the absence of a real estate license goes to the weight of testimony, not to whether the testimony can be admitted: “The absence of a license at best went to the weight of his testimony, there is no requirement that one be licensed in California to give expert testimony as an appraiser.”³²

The courts have dealt with the issue of what constitutes an appraisal and an appraiser in several situations, including tax matters, probate, gifts, and various aspects of family law. With respect to tax matters, the federal government provides guidance in Section 2 of Internal Revenue Bulletin 2006-46, which relates to the appraisal requirements for types of noncash charitable contributions. The document states that for an appraiser to be qualified to value noncash charitable contributions over \$5,000, he or she must be “an individual who (1) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary, (2) regularly performs appraisals for which the individual receives compensation, and (3) meets such other requirements as may be prescribed by the Secretary in regulations or

other guidance.”³³ The bulletin further provides that “an individual will not be treated as a qualified appraiser unless that individual (1) demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and (2) has not been prohibited from practicing before the Internal Revenue Service.”

A seminal case of a tax nature involves the question of who is a qualified appraiser. In *Estate of Richmond*, the executors of an estate hired the taxpayer’s certified public accountant to perform entity appraisals for submission on an estate tax return.³⁴ The IRS complained that the taxpayer’s appraiser was not qualified. The Tax Court agreed and imposed not only the taxes, penalties and interest but also a 20 percent “accuracy-related penalty” for a “substantial estate tax valuation understatement.”³⁵ The court ruled that despite being a CPA with a master’s degree in taxation, and having written 10 to 20 valuation reports, some of which he testified to in court, he was not qualified as an expert.³⁶ As a disclaimer, the accountant was providing an opinion as to the value of a business and not real property.

California requires assets subject to probate to be valued by a probate referee (formerly, an inheritance tax appraiser).³⁷ Probate referees are allowed under the California Probate Code.³⁸ They are required to be either appraisers, accountants or attorneys. This differs from *Estate of Richmond* in which the court stated that an accountant was not a qualified appraiser to value business interests in an estate tax setting. However, there is a question as to whether a probate referee can provide a qualified appraisal for tax purposes under Internal Revenue Bulletin 2006-46 since a qualified appraiser under the Code of Federal Regulations is defined as an individual who has earned an appraisal designation from a recognized professional appraiser organization and regularly performs appraisals.³⁹ The California Probate Code allows another exception to Business and Professions Code Section 11302 (b) to allow probate referees to provide appraisals in probate matters.⁴⁰ On the other hand, there is no clear guidance as to whether probate referees can provide valuations on nonprobate matters such as estate taxes or eminent domain cases.⁴¹

Regarding gifts, the Department of Treasury issued Publication 561 in 2007, which states that any noncash donation to a qualified charity over \$5,000 requires a qualified appraisal by a qualified appraiser.⁴² The definition of qualified appraiser includes one who is licensed to value property in his or her state. Hence, for the valuation of a non-cash real estate gift to a qualified organization, it appears that only licensed real property

appraisers can value the asset.

In family law, each spouse has an interspousal duty to accurately value assets. The courts call for the fair and equitable disposition of assets. The court in one case said nonbinding arbitration between the two spouses could not be used to determine value.⁴³ For community property assets:

”[A]bsent an in-kind division or sale and division of proceeds, valuation of each item in the community estate is an essential prerequisite to the court’s responsibility to effect a net equal division. Valuation is ultimately a question of fact, to be resolved in the exercise of the trial court’s broad discretion based on the range of evidence presented. The trial court’s determination will be upheld on appeal so long as supported by substantial evidence in the record.”⁴⁴

In family law proceedings, the value of real property may be established by evidence other than expert appraisal. The court in *In re Marriage of Folb* discussed using lending appraisals as well as recent sales of the property as evidence of value.⁴⁵ Essentially this is left up to the trier of fact.

Can a spouse prepare an appraisal on his or her property? “The property owner or owner’s spouse is competent to testify as to the value of his or her own property even though not qualified to testify as an expert.”⁴⁶

Opinion of Value Evidence

The issue of who may provide evidence of value has been dealt with numerous times, most notably in the U.S. Supreme Court case of *Daubert v. Merrell Dow Pharmaceuticals*.⁴⁷ The *Daubert* case is found to apply to California cases via *Sargon Enterprises, Inc. v. USC*.⁴⁸ Moreover, valuation evidence also has been addressed in California Evidence Code Sections 810 to 824.⁴⁹

California Civil Jury Instructions Section 3501 discusses what an appraisal is and how a jury should weigh the issue of value. Further, the court in *Alles v. Hill*⁵⁰ determined the property owner was also a real estate broker and the issue of competence was a matter of fact. Further, the trier of fact should determine whether the expert met the qualifications of Evidence Code Section 813. Finally, in *Daubert*, the court becomes the “gatekeeper” to ensure that the scientific methodology upon which the expert opinion is founded is reliable.⁵¹

In eminent domain cases, the only type of evidence that can be used to establish value is the opinion of qualified experts and property owners.⁵² Evidence Code Sections 810 to 813 are said to apply specifically to eminent domain cases.

Evidence Code Section 813 provides that the value of property may be shown only by

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the opinions of witnesses qualified to express such opinions and of the owner of the property being valued. Evidence Code Section 813 applies only to eminent domain and inverse condemnation proceedings by virtue of Evidence Code Section 810.⁵³

Lack of Appraisers

The Ninth District Federal Reserve Bank was the first governmental agency to formally address the appraiser shortage, which was later codified to apply to all districts. In an about-face, it provided guidelines on when member banks should consider lending without a formal appraisal, even though these are federally related transactions.⁵⁴ According to the guidelines, appraisals should be considered unnecessary under certain circumstances. It is important to understand which transactions may not require an appraisal but an evaluation may be used instead.⁵⁵ The appraisal regulation notes three general exceptions in which an evaluation may be used: the transaction is for less than \$250,000, the transaction is a real estate-secured business loan under \$1 million in which repayment is not dependent on the sale or cash flow of the real estate, and the transaction involves an existing extension of credit.⁵⁶

In the late 1980s, the appraisal industry was concerned with formalization, objectivity, and standards. Now, however, the Ninth Dis-

trict apparently is concerned with banks' inability to timely finalize lending transactions.⁵⁷

Options to a Formal Appraisal

Most real property appraisers say that the future of the industry lies in appraisal management companies (AMCs).⁵⁸ Most appraisers are unhappy with AMCs because they have had the effect of reducing appraisal fees and increasing deadlines.⁵⁹

An AMC is essentially an administrative entity that procures appraisals by licensed appraisers. It is not in and of itself a licensed appraiser. The BREB issues approximately 125 new AMC licenses per year.⁶⁰

Business and Professions Code Section 11302 (d) (1) defines an AMC as "an appraisal management company," which means any person or entity that satisfies all of the following conditions:

- (A) Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified pursuant to this part.
- (B) Receives requests for appraisals from one or more clients.
- (C) For a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or em-

ployee appraisers.

Appraisers do not like AMCs because they search for appraisers who can produce the valuation at the lowest cost and quickest turnaround. Lenders like AMCs for the same reasons. Appraisers say they feel as if they are being asked to perform appraisals in a less than fully competent manner and for a reduced price. On the other hand, this is another reason that fewer appraisers are entering the market.⁶¹

Another alternative to formal appraisals is automated valuation models (AVMs). These are computer-generated appraisals provided on online real estate data bases, for example Zillow, Trulia, and RealQuest. When a user inputs a home address on Zillow, a value is generated using computer models that require no human input. Some companies now are writing software to perform advanced commercial real property appraisals.

An evaluation is a transaction that does not require the services of a state-certified or licensed appraiser.⁶² The *Federal Register* states that "while licensed or certified appraisers may be qualified to perform evaluations, the agencies do not believe these appraisers are the only persons that can render a competent estimate of the value of real estate for exempt transactions."⁶³

This is another area in which consumers are opting for low-priced appraisals. Some valuation firms are turning to hiring personnel in India, China, and other countries in which labor costs are low. There may or may not be an actual property inspection, but a real person addresses valuation issues and writes reports. A licensed appraiser may or may not sign off on reports, but the reports give the appearance that a real person addressed the valuation.

In 2012, as a result of the shortage of appraisers and the backlog of valuations preventing loans from closing on time, federal financial regulators came up with the term "de minimis valuation thresholds."⁶⁴ This is a \$250,000 threshold below which an appraisal is not required for a federally related transaction.

Last year, the Federal Financial Institutions Examination Council, FDIC, and the American Bankers Association considered increasing the amount of a de minimis valuation threshold to \$500,000. However, various appraisal associations oppose this action, saying it would have a negative impact on real estate lending practices. In fact, some appraisal organizations have proposed lowering the threshold to \$25,000.⁶⁵ In many states (other than California), homes can cost significantly less than \$250,000. Therefore, the need for appraisers in those states has declined.

The appraisal industry has come full circle.



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What was intended as a way to make appraisers more competent and objective has turned into the use of automatized valuation models, appraisal management companies, and de minimis valuation requirements. The direction appears to be away from mom-and-pop appraisers toward administrative entities and computer-generated valuation models as consumers of appraisals look to innovative ways to get their properties appraised. ■

¹ Unless mentioned otherwise, all references to appraisers shall refer to licensed real property appraisers.
² Background Paper, Joint Oversight Hearing, Bureau of Real Estate Appraisers, No. 6, 13 (March 9, 2016) [hereinafter Background Paper].
³ *The Appraiser Shortage, What Can Be Done?* APPRAISAL BUZZ (March 8, 2016).
⁴ White Paper, Mortgage Bankers' Ass'n, 4 (July 2015).
⁵ *The number of real estate appraisers is falling. Here's why you should care*, MARKET WATCH (Nov. 18, 2015).
⁶ The Real Property Appraiser Qualification Criteria (Jan. 1, 2015).
⁷ Background Paper, *supra* note 2, at 10.
⁸ See 12 C.F.R. §34.43.
⁹ 12 C.F.R. §§34.43-44.
¹⁰ Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub.L. 101-73, 103 Stat. 183.
¹¹ *Id.*
¹² See, e.g., THE APPRAISAL FDN., 2016-2017 UNIFORM STDS. OF PROF'L APPRAISAL PRAC., 6, 151 [hereinafter USPAP].
¹³ *Id.*
¹⁴ Isaac Peck, *The Disappearing Appraiser*, WORKING RE, (Spring 2016) [hereinafter Peck].
¹⁵ PENAL CODE §1170.
¹⁶ BUS. & PROF. CODE §11302 (j).
¹⁷ USPAP, *supra* note 11.
¹⁸ USPAP, *supra* note 11, at 1.
¹⁹ *Id.*
²⁰ BUS. & PROF. CODE §11319.
²¹ USPAP, *supra* note 11, at 1, 105, 141.
²² BUS. & PROF. CODE §11302.
²³ *Id.*
²⁴ BUS. & PROF. CODE §11319.
²⁵ *Id.*
²⁶ USPAP, *supra* note 11, at 1, 105, 141.
²⁷ BUS. & PROF. CODE §11302 (b).
²⁸ *Id.*
²⁹ EVID. CODE §801.
³⁰ *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579 (1993).
³¹ *Id.*
³² *Johnson v. Dawkins*, No. G037998, (Cal. Ct. App. Nov. 19, 2008).
³³ See also I.R.C. §170(f)(11)(E)(ii).
³⁴ *Estate of Richmond*, TCM 2014-26.
³⁵ *Id.* at 46.
³⁶ *Id.* at 13. As a disclaimer, this case applied to specific facts. The reader is encouraged to read the particulars of this case.
³⁷ PROB. CODE §§8900-8909.
³⁸ *Id.*
³⁹ 26 C.F.R. 1.170A-13C(5).
⁴⁰ BUS. & PROF. CODE §11302(b); see also PROB. CODE §§400-08.
⁴¹ See CODE CIV. PROC. §873.010
⁴² DETERMINING THE VALUE OF DONATED PROPERTY, I.R.S., Publ. 561 (April, 2007).
⁴³ *In re Marriage of Cream*, 13 Cal. App. 4th 81, 85 (1993). See also *In re Marriage of Dennis*, 467 N.W. 2d 809 (Iowa Ct. App. 1991).
⁴⁴ *In re Marriage of Nichols*, 27 Cal. App. 4th 1090

(1994). See also *In re Marriage of Foster*, 42 Cal. App. 3d 583 (1974).
⁴⁵ *In re Marriage of Folb*, 53 Cal. App. 3d 862, 870-871 (1975).
⁴⁶ EVID. CODE §§813(a)(2), (c); 814.
⁴⁷ *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579 (1993).
⁴⁸ *Sargon Enters., Inc. v. Univ. of S. Cal.*, 55 Cal. 4th 747 (2012).
⁴⁹ EVID. CODE §813(a)(1)(2)(3).
⁵⁰ *Alles v. Hill*, 108 Cal. App. 2d 730 (1952).
⁵¹ *Daubert*, 509 U.S. 579.
⁵² *Aetna Life & Cas. v. City of L.A.* 170 Cal. App. 3d 877 (1985).
⁵³ *Folb*, 53 Cal. App. 3d at 870.
⁵⁴ *Banking in the Ninth, Overcoming the Appraiser Shortage*, Fed. Reserve Bank of Minneapolis (Dec. 9, 2013) available at <https://www.minneapolisfed.org>.

[hereinafter Banking in the Ninth].
⁵⁵ Evaluations are defined in the document Interagency Appraisal and Evaluation Guidelines, revised June 7, 1994.
⁵⁶ 12 C.F.R. §34.43.
⁵⁷ *Banking in the Ninth*, *supra* note 54.
⁵⁸ Peck, *supra* note 14.
⁵⁹ *Id.*
⁶⁰ Background Paper, *supra* note 2, at 10.
⁶¹ Peck, *supra* note 14.
⁶² *Id.* at 7.
⁶³ 12 C.F.R. §34.43 (b).
⁶⁴ See, e.g., 12 C.F.R. §34.43; Fed. Reserve Sys. §225.63(b); Office of Thrift Supervision §564.3(b) (Office of the Comptroller, Fed. Res. Sys).
⁶⁵ AMERICAN SOCIETY OF APPRAISERS, REGULATORY ISSUES FACING THE REAL ESTATE PROFESSION, available at <http://www.appraisers.org>.



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