

1                                   **BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE**

2   **STATE OF NEVADA**

3 GAIL J. ANDERSON, Administrator,           )  
4 REAL ESTATE DIVISION, DEPARTMENT       )  
5 OF BUSINESS AND INDUSTRY,                 )  
6 STATE OF NEVADA,                             )

**Case No. AP11.019.N**

6                                   Petitioner,                             )

**ORDER APPROVING STIPULATION  
FOR SETTLEMENT  
OF DISCIPLINARY ACTION**

7                                   vs.   )

**FILED**

8 JAMES Q. HUTCHINSON,                         )

**DEC 23 2013**

9                                   Respondent.                                 )

NEVADA COMMISSION OF APPRAISERS

*[Signature]*

12   **ORDER APPROVING STIPULATION FOR SETTLEMENT**  
13   **OF DISCIPLINARY ACTION**

14                   The parties' Stipulation for Settlement of Disciplinary Action (Stipulation) having come  
15 before the Nevada Commission of Appraisers of Real Estate (Commission), and the  
16 Commission being fully apprised in the premises, and good cause appearing to the  
17 Commission,

18                   IT IS HEREBY ORDERED that the Stipulation for Settlement of Disciplinary Action  
19 (Stipulation), attached hereto as Exhibit A and incorporated herein, be and is hereby  
20 approved.

21                   If Respondent fails to timely fulfill the terms of the Stipulation, then the Real Estate  
22 Division, Department of Business and Industry, State of Nevada (Division) may automatically  
23 rescind the Stipulation and the Order Approving Stipulation for Settlement of Disciplinary  
24 Action, may thereafter automatically suspend Respondent's license, and may proceed in filing  
25 a complaint before the Commission.

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1 six (6) months after the effective date of the Commission's order approving this settlement  
2 agreement;

3 2. Respondent agrees to attend a thirty (30) hour General Appraiser Sales  
4 Comparison Approach course and a fifteen (15) hour National USPAP course within six (6)  
5 months after the effective date of the Commission's order approving this settlement agreement.  
6 The hours will not count towards Respondent's continuing education requirements and must be  
7 obtained through live education and not home study;

8 3. The Division agrees not to pursue any other or greater remedies or fines in  
9 connection with the conduct referenced in the Amended Complaint and Notice of Hearing  
10 attached as Exhibit 1 to this agreement;

11 4. Respondent and the Division agree that by entering into this Stipulation, the  
12 Division does not concede any defense or mitigation Respondent may assert and that once this  
13 Stipulation is approved and fully performed, the Division will close its file in this matter.  
14 Respondent understands that the public records law may require the Division to make available  
15 for inspection this Stipulation and related documents. Respondent also understands that the  
16 Division may share the content of this Stipulation and related documents with any governmental  
17 or professional organization or member of the public;

18 5. Respondent and the Division agree that the Division, at its discretion, may publish  
19 in the newsletter a summary of the alleged offenses of Respondent and the terms of this  
20 Stipulation. It is further understood by the parties that this publication is for educational purposes  
21 only and to advise other licensees of the alleged violation(s) and that disciplinary action has been  
22 taken by the Division;

23 6. Respondent agrees that if the administrative fine is not paid within the time allowed  
24 above or the required education is not completed in the time allowed above, Respondent's  
25 license may be automatically suspended until such time as the fine is paid and education  
26 completed. The Division may, at its option, rescind this Stipulation and proceed with filing a  
27 Complaint before the Commission. Further, recovery actions for the administrative fines may be  
28 instituted by the Division;

Nevada Office of the Attorney General  
100 North Carson Street  
Carson City, NV 89701-4717

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IT IS FURTHER ORDERED that the Division may institute collection proceedings for failure to pay the fine and reimbursement.

This Order shall become effective on January 27, 2014.

Dated this 21 day of NOVEMBER 2013.

COMMISSION OF APPRAISERS OF REAL ESTATE

By:   
COMMISSIONER

**EXHIBIT "A"**

1                                   **BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE**

2   **STATE OF NEVADA**

3 GAIL J. ANDERSON, Administrator, REAL           )  
4 ESTATE DIVISION, DEPARTMENT OF                )  
5 BUSINESS AND INDUSTRY, STATE OF                )  
6 NEVADA,    )  
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**Case No. AP11.019.N**

**FILED**

DEC 23 2013

NEVADA COMMISSION OF APPRAISERS



Petitioner,

vs.

JAMES Q. HUTCHINSON,

Respondent.

11                                   **STIPULATION FOR SETTLEMENT OF DISCIPLINARY ACTION**

12           Parties. This Stipulation is entered into by and between Petitioner, REAL ESTATE  
13 DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA (Division), by  
14 and through its Administrator, GAIL J. ANDERSON, and Respondent, JAMES Q. HUTCHINSON  
15 (Respondent). Respondent was, at all times relevant to this Stipulation, a certified general  
16 appraiser licensed by the Division under License No. A.0000863-CG.

17           Alleged Facts and Violations

18           The alleged facts and violations are set out in the Amended Complaint and Notice of  
19 Hearing attached as Exhibit 1 to this settlement agreement.

20           Proposed Settlement. The Division is prepared to put on a case based on the  
21 Complaint filed with the Commission of Appraisers of Real Estate (Commission) alleging the  
22 above offenses, and the Division is authorized under NRS 645C.460 and NRS 645C.633  
23 to seek the imposition of a fine of up to Ten Thousand Dollars (\$10,000) for each offense  
24 alleged. Respondent is prepared to defend any such Complaint; however, the parties desire  
25 to compromise and settle the instant controversy upon the following terms and conditions:

- 26           1. Respondent agrees to pay to the Division the sum of Twelve Thousand Dollars  
27 (\$12,000) in administrative fines in resolution of the instant matter with Two Thousand Dollars  
28 (\$2,000) due upon approval by the Commission and Ten Thousand Dollars (\$10,000) due within

1           7.     Respondent agrees and understands that by entering into this Stipulation,  
2 Respondent is waiving his right to a hearing at which Respondent may present evidence in his  
3 defense and to be represented by counsel, to judicial review of any adverse decision by  
4 the Commission, and to present his defense to a Commission which has had no prior familiarity  
5 with the instant matter. The Commission members who review this matter for approval of  
6 this Stipulation may be the same members who ultimately hear the Division's Complaint if  
7 this Stipulation is either not approved by the Commission or is not timely performed by  
8 Respondent; and

9           8.     Each party shall bear its own attorney's fees and costs.

10           Stipulation is Not Evidence. Neither this Stipulation nor any statements made concerning  
11 this Stipulation may be discussed or introduced into evidence at the hearing of the Complaint, if  
12 the Division must ultimately put on a case based on the Complaint filed in this matter.

13           Approval of Stipulation. Once executed, this Stipulation will be filed with the Commission  
14 and will be put on the agenda for approval at its November meeting, which by Nevada law is a  
15 public meeting. The meeting is scheduled for November 6-8, 2013, and it will be held at the  
16 **Legislative Building, 401 South Carson Street, Room 3137, Carson City, Nevada 89104.**

17           Your Stipulation is one of several matters scheduled at the same time as part of a  
18 regular meeting of the Commission that is expected to last from **Wednesday, November 6,**  
19 **2013, beginning at 8:30 a.m. and each day thereafter at 8:30 a.m. through Friday,**  
20 **November 8, 2013.** At that time, the Division will recommend to the Commission approval of  
21 the Stipulation. Respondent is required by this Stipulation to attend said hearing. Respondent  
22 acknowledges and agrees that the Commission may approve this Stipulation, reject it, or suggest  
23 different terms that must be communicated to Respondent and accepted or rejected by  
24 Respondent before any such amendment shall become effective.

25           Withdrawal of Stipulation. If the Commission rejects this Stipulation or suggests terms  
26 unacceptable to Respondent, Respondent may withdraw from this Stipulation and the Division  
27 may pursue its complaint before the Commission.

28           Release. In consideration of execution of this Stipulation, the Respondent for himself,

1 his heirs, executors, administrators, successors, and assigns, hereby release, remise, and  
2 forever discharge the State of Nevada, the Department of Business and Industry of the State  
3 of Nevada, the Division, and each of their members, agents, and employees in their individual  
4 and representative capacities, from any and all manner of actions, causes of action, suits,  
5 debts, judgments, executions, claims, and demands whatsoever, known and unknown, in law  
6 or equity, that the Respondent ever had, now has, may have, or claim to have against any or  
7 all of the persons or entities named in this section, arising out of or by reason of the Division's  
8 investigation, this disciplinary action, and all other matters relating thereto.

9 Indemnification. Respondent hereby indemnifies and holds harmless the State of  
10 Nevada, the Department of Business and Industry of the State of Nevada, the Division, and  
11 each of their members, agents, and employees in their individual and representative  
12 capacities against any and all claims, suits, and actions brought against said persons and/or  
13 entities by reason of the Division's investigation, this disciplinary action and all other matters  
14 relating thereto, and against any and all expenses, damages, and costs, including court costs  
15 and attorney fees, which may be sustained by the persons and/or entities named in this  
16 section as a result of said claims, suits, and actions.

17 IT IS SO STIPULATED.

18 Dated: 11-06-13

REAL ESTATE DIVISION,  
Department of Business and Industry  
State of Nevada

21 By: Gail Anderson  
GAIL J. ANDERSON, Administrator

24 Dated: 10-29-2013

JAMES Q. HUTCHINSON, Respondent

26 Approved as to form:

27 CATHERINE CORTEZ MASTO  
28 Attorney General

1 By:

*AC. Smith*

2 GINA C. SESSION  
3 Chief Deputy Attorney General  
4 Attorney for Real Estate Division  
5 100 North Carson Street  
6 Carson City, Nevada 89701  
7 (775) 684-1207

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**EXHIBIT 1  
TO  
STIPULATION**

SEP 25 2013

NEVADA COMMISSION OF APPRAISERS

BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE *Robert Had*

STATE OF NEVADA

GAIL J. ANDERSON, Administrator,  
REAL ESTATE DIVISION, DEPARTMENT  
OF BUSINESS AND INDUSTRY,  
STATE OF NEVADA,

Case No. AP11.019.N

Petitioner,

AMENDED  
COMPLAINT AND NOTICE OF HEARING

vs.

JAMES Q. HUTCHINSON,

Respondent.

The State of Nevada, Department of Business and Industry, Real Estate Division ("Division"), by and through counsel, CATHERINE CORTEZ MASTO, Attorney General of the State of Nevada, and GINA C. SESSION, Chief Deputy Attorney General, hereby notifies Respondent, JAMES Q. HUTCHINSON, of an administrative hearing, which is to be held pursuant to Chapter 233B and Chapter 645C of the Nevada Revised Statutes and Chapter 645C of the Nevada Administrative Code. The purpose of the hearing is to consider the allegations stated below and to determine if the Respondent should be subject to an administrative penalty as set forth in NRS 645C.215 and/or NRS 645C.460, if the stated allegations are proven at the hearing by the evidence presented.

The Division complains for disciplinary action against Respondent, JAMES Q. HUTCHINSON.

JURISDICTION

Respondent HUTCHINSON, at the relevant times mentioned in this Complaint, is licensed for practice in Nevada as a certified general appraiser under the name James Q. Hutchinson, license number A.0000863-CG. and is, therefore, subject to the jurisdiction of the Division and the provisions of NRS Chapter 645C and NAC Chapter 645C.

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100 North Carson Street  
Carson City, NV 89701-4717

**FACTUAL ALLEGATIONS**

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1. Respondent, as a certified general appraiser, completed an appraisal on a 24.85 acre industrial property located at Arrowhead Industrial Park, Carson City, Nevada ("subject property"). See Exhibit 1, BS pp. 86-268.
  2. The appraisal had an effective date of December 28, 2005, and a signature date of January 9, 2006. The appraised value was \$9,410,000.
  3. Respondent failed to use acceptable appraisal techniques in valuing the subject property for just compensation for an eminent domain take.
  4. Respondent agreed to follow "Yellow Book" standards when he accepted the assignment, but did not comply with all of the Yellow Book standards in completing the report.
  5. Respondent failed to use the "State Rule" required by Nevada law when determining just compensation.
  6. Respondent failed to perform the following procedural steps necessary to complete the appraisal assignment:
    - a. Identify and describe the property before the Airport Runway Expansion Project ("Project");
    - b. Develop an opinion of the market value of the property before the Project;
  7. Respondent failed to perform the following procedural steps necessary when determining just compensation:
    - a. Develop an opinion of the market value of the property after the Project;
    - b. Subtract the value after the Project from the value before the Project that will equal total damages;
    - c. Subtract special benefits from total damages for net damages;
    - d. Net damages equals total "recommended just compensation."
  8. Respondent failed to use the correct market value definition.
  9. Respondent failed to choose and sufficiently analyze and report all comparable sales information relevant to the subject property and available at the time of the appraisal.

- 1 10. Respondent failed to choose comparable sales in subject's immediate area.
- 2 11. Respondent used sales outside the subject market that had different highest and best
- 3 use than the subject and thus were not the most comparable.
- 4 12. Respondent failed to support adjustments made to comparable sales.
- 5 13. Respondent incorrectly reported the size of sale 4.
- 6 14. Respondent failed to address the supply and demand factors for the larger parcels.
- 7 15. Respondent failed to adequately address the cost to remove the "airport hill" located on
- 8 the subject.
- 9 16. Respondent did not note any extraordinary assumptions, yet in the "after value" values
- 10 a non-legal parcel and assumes removal of a portion of "airport hill" on APN 8-206-13.
- 11 17. Respondent begins the report valuing five parcels of land and in the end concludes a
- 12 value for six parcels.
- 13 18. Respondent failed to state in the reports the name of the client and the intended users
- 14 of the report.

## 15 VIOLATIONS OF LAW

### 16 First Claim for Relief

17 Respondent has engaged in unprofessional conduct by failing to prepare the appraisal  
18 in compliance with the standards of the Appraisal Foundation, a violation of  
19 NRS 645C.460(1)(a), including the act found at NAC 645C.405(1). These standards are  
20 published in the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by  
21 the Appraisal Standards Board of the Appraisal Foundation as authorized by Congress and  
22 adopted in Nevada by NAC 645C.400.

### 23 Second Claim for Relief

24 Respondent has engaged in unprofessional conduct by failing to protect the public by  
25 issuing an appraisal with numerous errors, a violation of NRS 645C.460(1)(a), including the  
26 act found at NAC 645C.405(2).

### 27 Third Claim for Relief

28 By failing to perform an appraisal assignment in a competent manner and/or

1 communicating a misleading report, Respondent is in violation of the Conduct Section of the  
2 Ethics Rule of USPAP. This is unprofessional conduct pursuant to NRS 645C.460(1)(a),  
3 including the act found at NAC 645C.405(1).

4 Fourth Claim for Relief

5 By completing an appraisal assignment that Respondent did not have the knowledge or  
6 experience to complete competently, Respondent is in violation of the Competency Rule of  
7 USPAP. This is unprofessional conduct pursuant to NRS 645C.460(1)(a), including the act  
8 found at NAC 645C.405(1).

9 Fifth Claim for Relief

10 Respondent failed to correctly employ recognized methods and techniques that are  
11 necessary to produce a credible appraisal in violation of USPAP Standards Rule 1-1(a). This  
12 is unprofessional conduct pursuant to NRS 645C.460(1)(a), including the act found at  
13 NAC 645C.405(1).

14 Sixth Claim for Relief

15 By making numerous and significant errors in the appraisal, Respondent committed a  
16 substantial error or omission and/or rendered appraisal services in a careless or negligent  
17 manner in violation of USPAP Standards Rule 1-1(b) and/or (c). This is unprofessional  
18 conduct pursuant to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

19 Seventh Claim for Relief

20 By failing to identify the client and/or intended users of the report, Respondent is  
21 in violation of USPAP Standards Rule 1-2c(i) and/(a). This is unprofessional conduct pursuant  
22 to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

23 Eighth Claim for Relief

24 By failing to use the correct market value definition, Respondent  
25 is in violation of USPAP Standards Rule 1-2(c)(i) and/or (ii) and/or (iii). This is unprofessional  
26 conduct pursuant to NRS 645C.460(1)(a), including the act found at  
27 NAC 645C.405(1).

28 ///

1 Ninth Claim for Relief

2 By failing to identify extraordinary assumptions necessary to the assignment,  
3 Respondent is in violation of USPAP Standards Rule 1-2(g). This is unprofessional conduct  
4 pursuant to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

5 Tenth Claim for Relief

6 By failing to take the procedural steps necessary to complete the assignment in  
7 compliance with the Scope of Work Rule, Respondent is in violation of USPAP Standards Rule  
8 1-2(f). This is unprofessional conduct pursuant to NRS 645C.460(1)(a), including the act  
9 found at NAC 645C.405(1).

10 Eleventh Claim for Relief

11 By failing to properly analyze supply and demand factors for the larger parcel,  
12 Respondent is in violation of USPAP Standards Rule 1-3(a). This is unprofessional conduct  
13 pursuant to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

14 Twelfth Claim for Relief

15 By failing to sufficiently analyze the relevant comparable sales data available at the  
16 time of his appraisal, Respondent is in violation of USPAP Standards Rule 1-4(a). This is  
17 unprofessional conduct pursuant to NRS 645C.460(1)(a), including the act found at  
18 NAC 645C.405(1).

19 Thirteenth Claim for Relief

20 By failing to use the proper methodology to reconcile the comparable sales data  
21 available at the time of his appraisal, Respondent is in violation of USPAP Standards Rule  
22 1-6(a) and/or (b). This is unprofessional conduct pursuant to NRS 645C.460(1)(a), including  
23 the act found at NAC 645C.405(1).

24 Fourteenth Claim for Relief

25 By omitting significant information from his report and/or failing to accurately report or  
26 explain relevant information regarding the subject property and the comparable sales,  
27 Respondent prepared an appraisal that was misleading in violation of USPAP Standards Rule  
28 2-1(a) and/or (b). This is unprofessional conduct pursuant to NRS 645C.460(1)(a), including

1 the act found at NAC 645C.405(1).

2 Fifteenth Claim for Relief

3 By failing to identify extraordinary assumptions, Respondent prepared an appraisal that  
4 was misleading in violation of USPAP Standards Rule 2-1(c). This is unprofessional conduct  
5 pursuant to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

6 Sixteenth Claim for Relief

7 By failing to identify the client and/or intended users of the report, Respondent is in  
8 violation of USPAP Standards Rule 2-2(b)(i). This is unprofessional conduct pursuant to  
9 NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

10 Seventeenth Claim for Relief

11 By using the improper market value definition, Respondent is in violation of USPAP  
12 Standards Rule 2-2(b)(v). This is unprofessional conduct pursuant to NRS 645C.460(1)(a),  
13 including the act found at NAC 645C.405(1).

14 Eighteenth Claim for Relief

15 By failing to properly summarize the comparable sales data analyzed and the appraisal  
16 procedures followed, and the reasoning that supports the analyses, Respondent is in violation  
17 of USPAP Standards Rule 2-2-(b)(ix).

18 Nineteenth Claim for Relief

19 By failing to state the extraordinary assumption that affected the assignment results,  
20 Respondent is in violation of USPAP Standards Rule 2-2(b)(viii). This is unprofessional  
21 conduct pursuant to NRS 645C.460(1)(a), including the act found at NAC 645C.405(1).

22 **DISCIPLINE AUTHORIZED**

23 NRS 645C.460 establishes grounds for disciplinary action. NRS 645C.470(2) provides  
24 that an appraiser is guilty of unprofessional conduct if he violates any provision of or any  
25 regulation adopted pursuant to Chapter 645C. NRS 645C.460(2) provides that if grounds for  
26 disciplinary action against an appraiser are found to exist, the Commission may revoke or  
27 suspend the license, place conditions upon the license, and/or impose a fine up to \$10,000  
28 per violation. If the Commission finds that any claims for relief are time barred pursuant to

1 NRS 645C.510(3) they may impose any discipline except suspension and revocation.

2 If discipline is imposed, the Commission may order that costs of this proceeding,  
3 including investigative costs and attorney's fees, be awarded to the Commission pursuant to  
4 NRS 622.400. Therefore, the Division requests the Commission to impose such discipline as  
5 it determines is appropriate under the circumstances and to award the Division its costs and  
6 attorney's fees for this proceeding.

7 PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider this  
8 Administrative Complaint against the above-named Respondent in accordance with Chapter  
9 233B and Chapter 645C of the Nevada Revised Statutes and Chapter 645C of the Nevada  
10 Administrative Code.

11 **THE HEARING WILL TAKE PLACE at the Commission Meeting November 6-8,**  
12 **2013. The Commission meeting will be held at the Legislative Building, 401 S. Carson**  
13 **Street, Room 3137, Carson City, Nevada, 89701, with video to the Sawyer Building, 555**  
14 **E. Washington Ave., Room 4401, Las Vegas, Nevada 89101.**

15 STACKED CALENDAR: Your hearing is one of several hearings scheduled at the  
16 same time as part of a regular meeting of the Commission that is expected to last from  
17 **Tuesday, November 6, 2013, at 8:30 a.m. and each day thereafter at 8:30 a.m. through**  
18 **Thursday, November 8, 2013.** Thus, your hearing may be continued until later in the day or  
19 from day to day. It is your responsibility to be present when your case is called. If you are not  
20 present when your hearing is called, a default may be entered against you and the  
21 Commission may decide the case as if all allegations in the complaint were true. If you need  
22 to negotiate a more specific time for your hearing in advance because of coordination with  
23 out-of-state witnesses or the like, please call **Joanne Gierer at 702-486-4036.**

24 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an  
25 open meeting under Nevada's open meeting law and may be attended by the public. After the  
26 evidence and arguments, the Commission may conduct a closed meeting to discuss your  
27 alleged misconduct or professional competence. A verbatim record will be made by a certified  
28 court reporter. You are entitled to a copy of the transcript of the open and closed portions of

1 the meeting, although you must pay for the transcription.

2 As the Respondent, you are specifically informed that you have the right to appear and  
3 be heard in your defense, either personally or through your counsel of choice. At the hearing,  
4 the Division has the burden of proving the allegations in the complaint and will call witnesses  
5 and present evidence against you. You have the right to respond and to present relevant  
6 evidence and argument on all issues involved. You have the right to call and examine  
7 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant  
8 to the issues involved.

9 You have the right to request that the Commission issue subpoenas to compel  
10 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you  
11 may be required to demonstrate the relevance of the witness's testimony and/or evidence.  
12 Other important rights you have are listed in NRS Chapter 645C, NRS Chapter 233B, and  
13 NAC Chapter 645C.

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1 The purpose of the hearing is to determine if the Respondent has violated  
2 NRS 645C.460(1) and, if the allegations contained herein are substantially proven by the  
3 evidence presented, to further determine what administrative penalty is to be assessed  
4 against the Respondent, if any, pursuant to NRS 645C.460 and/or NRS 622.400.

5 DATED this 24<sup>th</sup> day of September 2013.

6 NEVADA REAL ESTATE DIVISION

7  
8 By:   
9 GAIL J. ANDERSON, Administrator

10  
11 CATHERINE CORTEZ MASTO  
12 Attorney General

13 By:   
14 GINA C. SESSION  
15 Chief Deputy Attorney General  
16 Nevada Bar No. 5493  
17 100 North Carson Street  
18 Carson City, Nevada 89701-4717  
19 (775) 684-1207  
20 *Attorneys for Real Estate Division*