

1                   **BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE**  
2   **STATE OF NEVADA**

3 SHARATH CHANDRA , Administrator, )  
4 REAL ESTATE DIVISION, )  
5 DEPARTMENT OF BUSINESS AND )  
6 INDUSTRY, )  
7 STATE OF NEVADA, )

8   Petitioner, )

9   vs. )

10 MICHAEL L. BRUNSON )  
11 (License No. A.0207222-CG), )  
12   Respondent. )

Case No. 2016-4146 & AP 17.020.S

**COMPLAINT AND NOTICE OF HEARING**

**FILED**

SEP - 6 2018

NEVADA COMMISSION OF APPRAISERS



13                   State of Nevada, Department of Business and Industry, Real Estate Division (“the  
14 Division”), by and through counsel, Attorney General ADAM PAUL LAXALT and Deputy  
15 Attorney General PETER K. KEEGAN, hereby notifies MICHAEL L. BRUNSON  
16 (“Respondent”) of an administrative hearing which is to be held pursuant to Chapter  
17 233B and Chapter 645C of the Nevada Revised Statutes (“NRS”) and Chapter 645C of the  
18 Nevada Administrative Code (“NAC”). The purpose of the hearing is to consider the  
19 allegations stated below and to determine if the Respondent should be subject to a  
20 disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated allegations  
21 are proven at the hearing by the evidence presented.

22   **JURISDICTION**

23                   The Respondent is a Certified General Appraiser licensed by the Division, and  
24 therefore, is subject to the Jurisdiction of the Division and the provisions of NRS and  
25 NAC Chapter 645C. By availing himself of the benefits and protections of the laws of the  
26 State of Nevada, the Respondent has submitted to the jurisdiction of the Division.

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1 FACTUAL ALLEGATIONS

2 **A. 594 Lairmont Place & 598 Lairmont Place**

3 1. The Respondent is currently licensed by the Division as a Certified General  
4 Appraiser on October 14, 2015, License No. A.0207222-CG.

5 2. Prior to obtaining as Certified General Appraiser license, the Respondent  
6 was licensed by the Division as a Certified Residential Appraiser, License No. A.0002794-  
7 CR, from December 9, 1997 through December 31, 2015, and an as Appraiser Intern,  
8 License No. A.0002105-INTR, from October 10, 1995 through October 31, 1999.

9 3. On or about December 8, 2016, the Division received a complaint/statement  
10 of fact asserting that the Respondent had completed an appraisal in violation of several  
11 provisions of the Uniform Standards of Professional Appraisal Practice (“USPAP”).

12 4. Respondent was engaged to conduct a Restricted Appraisal for litigation  
13 purposes of residential properties located at 594 & 598 Lairmont Place, Henderson,  
14 Nevada 89012, APN 178-27-226-003 & 178-27-218-001 (“Properties”), by analyzing the  
15 nature, quality, value, or use of the property, and offered an opinion as to the nature,  
16 quality, value or use of the property for or with the expectation of compensation.

17 5. The effective date of valuation performed by the Respondent was identified  
18 as October 20, 2014.

19 6. The date of transmittal for the appraisal report was October 21, 2014.

20 7. At the time Respondent signed the appraisal in question, he was operating  
21 under his Residential Appraiser’s License No. A.0002784-CR.

22 8. The type of appraisal identified by the Respondent was Restricted Appraisal  
23 Report.

24 9. The intended use of the appraisal performed by the Respondent was  
25 “negotiation.”

26 10. The Respondent’s client is identifies as Mr. Howard C. Kim, Esq., the  
27 attorney for Frederic and Barbara Rosenberg Living Trust; this client arrangement is  
28 inconsistent with the intended use of the Restrictive Appraisal Report.

1           11. On or about December 8, 2016, the Division mailed to the Respondent an  
2 opening letter requesting, by December 22, 2016, copies of the Respondent's work file for  
3 the Properties.

4           12. On or about January 9, 2017, the Respondent submitted his response to the  
5 complaint and a copy of his work file for the Properties.

6           13. Respondent's work file did not contain an engagement letter for appraisals  
7 conducted on the Properties precluding a full scope of work analysis by the Division.

8           14. The Scope of Work identified in the Respondent's Damages Analysis fails to  
9 (1) identify the problem to be solved; (2) determine and perform the scope of work  
10 necessary to develop credible assignment results based upon the problem identified; and  
11 (3) fully disclose the scope of work in the report.

12           15. The scope of work identified in the appraisal included "analysis of overall  
13 Southern Nevada economy; analysis of the subject property based on available data  
14 sources and information provided by the Client; analysis of comparable sales and listing  
15 as of the effective date; analysis of financing opportunities; leading to an opinion of the  
16 market value as of a current date."

17           16. The appraisal did not include analysis of the (1) overall analysis of overall  
18 Southern Nevada economy; (2) analysis of comparable sales and listing as of the effective  
19 date; or (3) analysis of financing opportunities.

20           17. The appraisal failed to clearly disclose the application of a hypothetical deed  
21 restriction on the 14,858 sq. ft. of additional land, which was only discussed in a single  
22 footnote.

23           18. The appraisal failed to compare and adequate number of undeveloped land  
24 sales in the subject market area, only three sales (two if counting the Corcovado Ct. bulk  
25 sale discount as a single sale) were analyzed, thus rendering unreliable the extrapolated  
26 sales comparisons of \$16/sq. ft. for lots lacking elevation and the extrapolated \$22/sq. ft.  
27 for lots with golf course and city views.

28           19. The appraisal failed to identify or analyze the ownership history or recent

1 sales of the Properties as of the effective date of the appraisal.

2 20. The appraisal work file contained no analysis, calculations, or explanation  
3 for the conclusory 12.8% year-over-year increase in the Las Vegas Home Price Index.

4 21. On or about August 9, 2018, the Division mailed to the Respondent a follow-  
5 up letter, pursuant to NRS Chapter 233B Letter, as required by NRS 233B.237(3)  
6 indicating that the investigation of this matter was being reopened and a formal  
7 complaint was being filed by the Division with the Nevada Appraisal Commission.

8 **B. 590 Lairmont Place**

9 1. Respondent assisted in the preparation of a Real Estate Damages Analysis  
10 (“Damages Analysis”) for the property located at 590 Lairmont Place, Henderson, Nevada  
11 89012, APN 178-27-218-003 (“590 Lairmont”)

12 2. The opinion contained in the Damages Analysis concerned the impact of a  
13 detrimental condition, further identified as a Class V: Detrimental Condition, on a  
14 specific house.

15 3. The effective date of the analysis was May 15, 2013.

16 4. The date of transmittal on the analysis was November 25, 2014.

17 5. The intended use of the analysis was litigation.

18 6. 590 Lairmont was originally listed on March 13, 2013, for \$2,160,000, but  
19 closed with an “all cash” sale price of \$2,303,000 on May 15, 2013, after 13 days on the  
20 market.

21 7. The Respondent failed to identify or analyze the ownership history or recent  
22 sales of 590 Lairmont as of the effective date of the appraisal.

23 8. The Damages Analysis accepted the “As Is” (unimpaired value) expressed in  
24 the expert appraisal report completed by Valbridge Property Advisors with an effective  
25 date of May 15, 2013, and a cited value opinion of \$2,500,000.00 under an Extraordinary  
26 Assumption.

27 9. The real property, commonly known as 594 & 598 Lairmont Place, to the  
28 east of 590 Lairmont were vacant at the time of sale.

1           10.    The Damages Analysis failed to clearly disclose the application of the  
2 hypothetical condition that the vacant real property to the east had been expanded by the  
3 acquisition of an additional 14,858 sq. ft. of land with accompanying plans to develop a  
4 larger custom home.

5           11.    As of the effective date, the purchase of additional parcel had not closed and  
6 the owners of the real property adjacent to the east of 590 Lairmont had not completed  
7 their plans to develop.

8           12.    The Damages Analysis fails to recognize that borrowed views across adjacent  
9 properties are not guaranteed in perpetuity by laws or agreement in this case.

10          13.    The Damages Analysis failed to identify permissible landscaping as a  
11 possible obstruction of the borrowed views.

12          14.    Respondent is not trained in statistical analysis or experienced in generating  
13 surveys.

14          15.    The Damages Analysis used the wrong borrowed view corridor and applied  
15 the same incorrect view corridor to the survey.

16          16.    The Damages Analysis failed to include paired sales or any sales data  
17 analysis to support a 30 to 40% value loss.

18          17.    The Damages Analysis presupposed loss in value to 590 Lairmont and  
19 applies bias to the survey results.

20          18.    The Damages Analysis survey results are not supported by transactional  
21 data.

22          19.    The Damage Analysis survey results are skewed toward negative value  
23 impact responses.

24          20.    The Damages Analysis fails to account for existing topographic, physical,  
25 and developed features of the surrounding land that create fishbowl conditions that  
26 diminish the privacy of 590 Lairmont.

27          21.    The Damages Analysis reflects the Respondent assessing the timeframe of  
28 disclosure of the acquisition of the additional parcel by “defendants” as part of the

1 damages analysis, which has nothing to do with an unbiased assessment of the loss of  
2 value itself.

3 22. The Case Studies included in the Damages Analysis, independent of  
4 transactional data, do not provide reliable support for the value conclusion.

5 **VIOLATIONS OF LAW**

6 The Respondent failed to prepare the appraisal report for the Property in  
7 Compliance with the Standards of the Appraisal Foundation. These Standards are  
8 published in the Uniform Standards of Professional Appraisal Practice (“USPAP”)  
9 adopted by the Appraisal Standards Board of the Appraisal Foundation, as authorized by  
10 Congress and adopted in Nevada by NAC 645C.400.<sup>1</sup>

11 **First Violation**

12 By failing to (1) identify the problem to be solved; (2) determine and perform the  
13 scope of work necessary to develop credible assignment results; and (3) fully disclose the  
14 scope of work in the report, the Respondent violated the USPAP Scope of Work Rule, as  
15 codified in NAC 645C.405(1). The Respondent’s actions constitute unprofessional conduct,  
16 pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS  
17 645C.460(1)(a) and/or (b).

18 **Second Violation**

19 By engaging in unconventional survey analytics without the proper training and  
20 statistical analysis, Respondent violated the USPAP Competency Rule, as codified in  
21 NAC 645C.405(1). Respondent was not competent in the area of survey analysis and  
22 failed to obtain the necessary training to competently perform the survey of real estate  
23 professionals undertaken as part of the Real Estate Damage Analysis. The Respondent’s  
24 actions constitute unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for  
25 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

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28 <sup>1</sup> The 2014-2015 edition of USPAP, effective January 1, 2014 through December 31, 2015, is applicable to and utilized for this Complaint.

1 **Third Violation**

2 By engaging in the Real Estate Damage Analysis of 590 Lairmont Place and failing  
3 to perform the assignment with impartiality, objectivity, independence, and without  
4 accommodation of personal interests, Respondent demonstrated bias and appeared to  
5 advocate for the interest of his clients. Furthermore, Respondent failed to promote and  
6 protect the public trust inherent in appraisal practice. Respondent thereby violated the  
7 USPAP Ethics Rule, as codified in NAC 645C.405(1). The Respondent's actions constitute  
8 unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for disciplinary action  
9 pursuant to NRS 645C.460(1)(a) and/or (b).

10 **Fourth Violation**

11 By failing to conduct a thorough analysis of comparable sales or use other methods  
12 to evaluate transactional level data in support of the survey results, the Respondent  
13 failed to be aware of, understand, and correctly employ the recognized methods and  
14 techniques that are necessary to produce a credible market value appraisal, or  
15 retrospective Damages Analysis, the Respondent violated USPAP Rule 1-1(a), as codified  
16 in NAC 645C.405(1). The Respondent's actions constitute unprofessional conduct,  
17 pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS  
18 645C.460(1)(a) and/or (b).

19 **Fifth Violation**

20 By failing to follow the scope of work identified in the appraisal of the Properties,  
21 the Respondent made numerous and substantial errors through both omission and  
22 commission, which significantly affected the appraisal, the Respondent violated USPAP  
23 Standards Rule 1-1(b), as codified in NAC 645C.405(1). This is unprofessional conduct  
24 pursuant to NRS 645C.470(2) and grounds for disciplinary action, pursuant to Nevada  
25 Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

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1 **Sixth Violation**

2 By conducting and evaluating a survey of real estate professionals without  
3 adequate training, Respondent acted in a careless or negligent manner, causing the  
4 Damages Analysis to contain a series of errors that, although individually might not have  
5 significantly affected the results of the appraisal, in the aggregate did affect the  
6 credibility of the appraisal, and therefore Respondent violated USPAP Standards Rule 1-  
7 1(c), as codified in NAC 645C.405(1). The Respondent's actions constitute professional  
8 incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant  
9 to NRS 645C.460(1)(a) and/or (b).

10 **Seventh Violation**

11 In developing the Damages Analysis, the Respondent failed to clearly disclosed the  
12 application of hypothetical conditions necessary in the assignment and thereby violated  
13 USPAP Standards Rule 1-2(g), as codified in NAC 645C.405(1). The Respondent's actions  
14 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for  
15 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

16 **Eighth Violation**

17 By failing to follow the Scope of Work set forth in Respondent's appraisal of the 590  
18 Lairmont Place residential property, the Respondent failed to establish that the work  
19 done to complete the appraisal produced a credible result. As a result, the Respondent  
20 violated USPAP Standards Rule 1-2(h) and the USPAP Ethics Rule of Conduct as codified  
21 by NAC 645C.405(1). The Respondent's actions constitute professional incompetence  
22 pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS  
23 645C.460(1)(a) and/or (b).

24 **Ninth Violation**

25 The Respondent committed a violation of NRS 645C.480(1)(a) and NAC 645C.440  
26 by failing to produce, upon demand, any document, book, or record in his or her  
27 possession or under his or her control after being requesting to do so by the Division as  
28 part of its investigation of a complaint. Specifically, the Respondent failed to provide a



1 copy of the engagement letter in this matter. Respondent's actions constitute  
2 unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action  
3 pursuant to NRS 645C.460(1)(a) and/or (b).

4 **Tenth Violation**

5 By failing to support the comparable sales analysis with sufficient transactional  
6 data, the user cannot understand or rely on comparable analysis. As a result, the  
7 Respondent violated USPAP Standards Rule 1-4(a), as codified in NAC 645C.405(1). The  
8 Respondent's actions constitute professional incompetence pursuant to NRS 645C.470(3)  
9 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

10 **Eleventh Violation**

11 By failing to provide a historical sales or ownership analysis and explanation of the  
12 agreements for sale, zoning changes, and other existing listings, that occurred within the  
13 three (3) prior years leading up to the effective date, the Respondent failed to analyze all  
14 agreements related to the property. As a result, the Respondent violated USPAP  
15 Standards Rule 1-5(a) and 1-5(b), as codified in NAC 645C.405(1). The Respondent's  
16 actions constitute professional incompetence pursuant to NRS 645C.470(3) and grounds  
17 for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

18 **Twelfth Violation**

19 By failing to explain or justify the selection of the sales comparison approach and  
20 disregard of the income and cost approach, the Respondent failed to reconcile the  
21 suitability of the approaches used to arrive at the value conclusion. Similarly, Respondent  
22 failed to provide any analysis or calculations supporting his 12.8% year over year increase  
23 in the Las Vegas Home Price Index. As a result, the Respondent violated USPAP  
24 Standards Rule 1-6(b), as codified in NAC 645C.405(1). The Respondent's actions  
25 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for  
26 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

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1 **Thirteenth Violation**

2 By failing to clearly and adequately disclose and explain the application of a  
3 hypothetical condition to the Damages Analysis, the Respondent failed to communicate  
4 the analysis, opinion, and conclusion in a manner that was not misleading. As a result,  
5 the Respondent violated USPAP Standards Rule 2-1(a) and Rule 2-1(c), as codified in  
6 NAC 645C.405(1). The Respondent's actions constitute unprofessional conduct pursuant  
7 to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)  
8 and/or (b).

9 **DISCIPLINE AUTHORIZED**

10 1. Pursuant to NRS 645C.460(2), if grounds for disciplinary action against an  
11 appraiser are found to exist for unprofessional conduct, the Commission may revoke or  
12 suspend the certificate, place conditions upon the certificate, deny the renewal of his or  
13 her certificate, and/or impose a fine up to \$10,000.00 per violation. NRS 645C.480(1)(a) is  
14 identified as an additional act of unprofessional conduct.

15 2. Additionally, under NRS Chapter 622.400, the Commission is authorized to  
16 impose the costs of the proceeding upon the Respondent, including investigative costs and  
17 attorney's fees, if the Commission otherwise imposes discipline on the Respondent.

18 3. Therefore, the Division requests the Commission to impose such discipline as  
19 it determines is appropriate under the circumstances and to award the Division its costs  
20 and attorney's fees for this proceeding.

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

25 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled  
26 for October 9, 10, and 11, 2018, beginning at approximately 9:00 a.m. each day, or  
27 until such time as the Commission concludes its business. The Commission  
28 meeting will be held at the Nevada State Business Center, 3300 W. Sahara

1 Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102, with  
2 videoconferencing to the State of Nevada, Department of Business and  
3 Industry, Division of Insurance, 1818 East College Parkway, 1st floor Hearing  
4 Room, Carson City, Nevada 89706.

5 **STACKED CALENDAR:** Your hearing is one of several hearings that may  
6 be scheduled at the same time as part of a regular meeting of the Commission  
7 that is expected to take place on October 9-11, 2018. Thus, your hearing may be  
8 continued until later in the day or from day to day. It is your responsibility to  
9 be present when your case is called. If you are not present when your case is  
10 called, a default may be entered against you, and the Commission may decide  
11 the case as if all allegations in the complaint were true. If you need to negotiate  
12 a more specific time for your hearing in advance, because of coordination with  
13 out of state witnesses or the like, please call Samiel Williams, Commission  
14 Coordinator, at (702) 486-4606.

15 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an  
16 open meeting under Nevada's open meeting law and may be attended by the public. After  
17 the evidence and arguments, the Commission may conduct a closed meeting to discuss  
18 your alleged misconduct or professional competence. A verbatim record will be made by a  
19 certified court reporter. You are entitled to a copy of the transcript of the open and closed  
20 portions of the meeting, although you must pay for the transcription.

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

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


6  
7 DATED the 6 day of September 2018.

DATED the 5th day of September 2018.

8 NEVADA REAL ESTATE DIVISION

ADAM PAUL LAXALT  
Attorney General

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10  
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