

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,

Case No. 2020-676, AP21.009.S

8 Petitioner,
9 vs.

**COMPLAINT AND NOTICE OF
HEARING
FILED**

10 KRISTEN N. ASTE,
11 (License No. A.0007406-CR),

SEP 01 2023

12 Respondent.

NEVADA COMMISSION OF APPRAISERS
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13 State of Nevada, Department of Business and Industry, Real Estate Division (“the
14 Division”), by and through counsel, Attorney General AARON D. FORD and Senior
15 Deputy Attorney General Phil W. Su, hereby notifies KRISTEN N. ASTE (“Respondent”)
16 of an administrative complaint and hearing which is to be held pursuant to Chapter 233B
17 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 Residential 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 herself of the benefits and protections of the laws of the
26 State of Nevada, the Respondent has submitted to the jurisdiction of the Division.

27 **PROCEDURAL HISTORY**

28 1. On or about August 5, 2020, the Division received a complaint regarding the

1 subject Appraisal Report prepared by RESPONDENT (“Appraisal Report”). [NRED 0948].

2 2. On August 5, 2020, the Division opened an investigation into the complaint
3 and issued an open investigation letter to RESPONDENT requesting a copy of the digital
4 appraisal report, entire work file and supporting documentation, with a deadline of
5 August 17, 2020. [NRED 0915].

6 3. The Respondent complied with the Division’s August 5, 2020, request by
7 providing a digital copy of her Appraisal Report and work file, totaling 777 pages. [NRED
8 0136-0913].

9 4. The Division commissioned a Standard 3 Review of the Appraisal Report,
10 which was completed on June 13, 2021. [NRED 0927-0947].

11 5. Following the investigation and Standard 3 Review, on October 18, 2021, the
12 investigator recommended the case be heard by the Appraisal Advisory Review
13 Committee (“AARC”). [NRED 0951].

14 6. On March 17, 2022, the Appraisal Program Manager sent Respondent a
15 letter requesting that she provide a response to the allegations originally sent to her on
16 August 5, 2020. [NRED 0916-0918].

17 7. This case was heard by the AARC on May 24, 2022, and the Committee
18 recommended that this case 2020-676 be forwarded to the Commission. [NRED 0970-
19 0974].

20 **FACTUAL ALLEGATIONS**

21 8. The Respondent prepared an Appraisal Report for a three-story, 13,846 sq.
22 ft. (Gross Living Area), 6 br/6.1 bath residence located at 608 St. Croix St., Henderson,
23 NV 89012, APN # 178-27-216-015 (“Property”). [NRED 0002-0135].

24 9. Construction on the home started in 2009 and remained ongoing as of the
25 date of the Standard 3 Review, June 13, 2021. [NRED 0930].

26 10. The Appraisal Report’s assignment type was noted as “Refinance
27 Transaction” and indicated a value conclusion of \$13,000,000.00 by Sales Comparison
28 Approach. [NRED 0002-0003].

1 11. The effective date of the report was indicated as June 2, 2020, and the date
2 of signature of the report was June 18, 2020. [NRED 0008].

3 12. The work file lacked proof, analysis or testing to support the following
4 statements and/or assumptions found in the Appraisal Report:

- 5 a. Location adjustment, since several of the comparables featured similar
- 6 city views or a long golf course view.
- 7 b. Size of site adjustment;
- 8 c. Statement that some comparables were in C1 condition;
- 9 d. Bath count adjustment;
- 10 e. GLA adjustment;
- 11 f. Garage adjustment;
- 12 g. The inclusion in cost approach analysis of \$3,488,000 in on-site
- 13 improvements;
- 14 h. Condition adjustments and 10% entrepreneurial adjustments for
- 15 comparables 7, 8, and 9;
- 16 i. Statement that adjustments are market derived and supported by
- 17 multivariate regression; and
- 18 j. Statement that adjustments in the grid were derived from matched pair
- 19 analysis.

20 [NRED 0002-0015; 0932-0933].

21 13. The Appraisal Report and work file did not consider the possible super-
22 adequacy of a 13,386 sq. ft. basement. [NRED 0944].

23 14. Comparable sales photos in the Appraisal Report are cropped photos from
24 MLS and/or other online sources, rather than from inspection from street-level or closer,
25 contrary to the stated Scope of Work. [NRED 0408; 0099-0101; 0138; 0839-842; 0852-
26 0854; 0863-0868; 0876-0879; 0887-0892; 0899-0902; 0944].

27 15. The Appraisal Report reports “highest and best use” is “present use,” but
28 does not provide analysis in support of the contention. [NRED 0002; 0413; 0944].

1 pursuant to NRS 645C.460(1)(a) and/or (b).

2 **Second Violation**

3 The USPAP RECORD KEEPING RULE requires an appraiser to properly prepare
4 a work file for each appraisal or appraisal review assignment. A work file must be in
5 existence prior to the issuance of any report or other communication of assignment
6 results. A written summary of an oral report must be added to the work file within a
7 reasonable time after the issuance of the oral report. The work file must include all other
8 data, information, and documentation necessary to support the appraiser's opinions and
9 conclusions and to show compliance with USPAP, or references to the location(s) of such
10 other data, information, and documentation.

11 The Respondent violated USPAP RECORD KEEPING RULE by failing to include
12 computations regarding multivariable regression or matched pairs analysis that allegedly
13 support the Appraisal Report's adjustments; the work file contains four appraisal reports,
14 with the same and/or no signature date, making it unclear how many reports were
15 actually sent to the client.

16 The Respondent's actions constitute unprofessional conduct pursuant to NRS
17 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
18 action pursuant to NRS 645C.460(1)(a) and/or (b).

19 **Third Violation**

20 The USPAP SCOPE OF WORK RULE requires an appraiser to properly identify
21 the problem to be solved in order to determine the appropriate scope of work. The
22 appraiser must be prepared to demonstrate that the scope of work is sufficient to produce
23 credible assignment results. Scope of work includes but is not limited to: the extent to
24 which the property is identified; the extent to which tangible property is inspected; the
25 type of extent of data researched; and the type and extent of analyses applied to arrive at
26 opinions or conclusions.

27 The Respondent violated USPAP SCOPE OF WORK RULE by failing to explain
28 the extent of analyses used to arrive at opinions and conclusions in her report and/or

1 work file, and by failing to comply with the Scope of Work section of the Appraisal Report
2 stating "The appraiser must, at minimum... (3)inspect each of the comparable sales from
3 at least the street."

4 The Respondent's actions constitute unprofessional conduct pursuant to NRS
5 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
6 action pursuant to NRS 645C.460(1)(a) and/or (b).

7 **Fourth Violation**

8 USPAP Standards Rule 1-1(a) and 1-1(b) requires an appraiser to (a) be aware of,
9 understand, and correctly employ those recognized methods and techniques that are
10 necessary to produce a credible appraisal, and (b) not commit a substantial error of
11 omission or commission that significantly affects an appraisal.

12 Respondent violated Standards Rule 1-1(a) by overlooking as many as ten (10)
13 recent, proximate sales, by failing to consider or address the possible super-adequacy of
14 the basement; and by including numerous adjustments not supported by the work file.

15 Respondent violated Standards Rule 1-1(b) by overlooking recent, proximate sales.
16 The Respondent's actions constitute unprofessional conduct pursuant to NRS
17 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
18 action pursuant to NRS 645C.460(1)(a) and/or (b).

19 **Fifth Violation**

20 USPAP Standards Rule 1-2(h) requires an appraiser to, in developing a real
21 property appraisal, (h) determine the scope of work necessary to produce credible
22 assignment results in accordance with the SCOPE OF WORK RULE.

23 Respondent violated Standards Rule 1-2(h) by failing to explain the extent of
24 analyses used to arrive at opinions and conclusions in her report and/or
25 work file, and by failing to comply with the stated Scope of Work regarding at least street-
26 level inspection of all comparable sales.

27 The Respondent's actions constitute unprofessional conduct pursuant to NRS
28 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary

1 action pursuant to NRS 645C.460(1)(a) and/or (b).

2 **Sixth Violation**

3 USPAP Standards Rule 1-3(b) requires an appraiser to, when necessary for
4 credible assignment results in developing a market value opinion, (b) develop an opinion
5 of the highest and best use of the real estate. An appraiser must analyze the relevant
6 legal, physical, and economical factors to the extent necessary to support the appraisers
7 highest and best use conclusion(s).

8 Respondent violated Standards Rule 1-3(b) by reporting “highest and best use” as
9 “present use,” but failing to provide support and evidence of that analysis in the work file.

10 The Respondent’s actions constitute unprofessional conduct pursuant to NRS
11 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
12 action pursuant to NRS 645C.460(1)(a) and/or (b).

13 **Seventh Violation**

14 USPAP Standards Rule 1-4(a) requires an appraiser to collect, verify, and analyze
15 all information necessary for credible assignment results: (a) When a sales comparison
16 approach is necessary for credible assignment results, an appraiser must analyze such
17 comparable sales data as are available to indicate a value conclusion.

18 The Respondent violated Standards Rule 1-4(a) by failing to consider all larger
19 Gross Living Area homes found in the immediate market.

20 The Respondent’s actions constitute unprofessional conduct pursuant to NRS
21 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
22 pursuant to NRS 645C.460(1)(a) and/or (b).

23 **Eighth Violation**

24 USPAP Standards Rule 1-6(a) and 1-6(b) requires an appraiser to (a) reconcile the
25 quality and quantity of data available and analyzed within the approaches used and (b)
26 reconcile the applicability and relevance of the approaches, methods and techniques used
27 to arrive at the value conclusion(s).

28 The Respondent violated Standards Rule 1-6(a) by failing to discuss the quality and

1 quantity of data in the reconciliation section of the supplemental addendum of the
2 Appraisal Report.

3 The Respondent violated Standards Rule 1-6(b) by failing to mention cost approach
4 in the reconciliation section of the supplemental addendum of the Appraisal Report.

5 The Respondent's actions constitute unprofessional conduct pursuant to NRS
6 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
7 pursuant to NRS 645C.460(1)(a) and/or (b).

8 **Ninth Violation**

9 USPAP Standards Rule 2-1(a) and 2-1(b) require each written or oral real property
10 appraisal report to: (a) clearly and accurately set forth the appraisal in a manner that will
11 not be misleading and (b) contain sufficient information to enable the intended user(s) of
12 the appraisal to understand the report properly.

13 In violation of Standards Rule 2-1(a) the Respondent's Appraisal Report used
14 comparable sales that appear to be specifically chosen, yet very dated or distant, leading
15 to misleading results, while simultaneously overlooking more similar and proximate
16 comparables.

17 In violation of Standards Rule 2-1(b) the use of specific comparable sales that
18 appear to be specifically chosen, yet very dated or distant, leading to misleading results,
19 leaves the reader unable to understand the report properly.

20 The Respondent's actions constitute unprofessional conduct pursuant to NRS
21 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
22 action pursuant to NRS 645C.460(1)(a) and/or (b).

23 **Tenth Violation**

24 USPAP Standards Rule 2-2(a)(b)(c)(xii) requires that when an opinion of highest
25 and best use was developed by the appraiser, the appraiser must state that opinion and
26 summarize the support and rationale for that opinion.

27 In violation of Standards Rule 2-2(a)(b)(c)(xii), the Respondent's Appraisal Report
28 gives an opinion as to "highest and best use" but does not fully analyze the support and

1 rationale for that opinion.

2 The Respondent's actions constitute unprofessional conduct pursuant to NRS
3 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
4 action pursuant to NRS 645C.460(1)(a) and/or (b).

5 **DISCIPLINE AUTHORIZED**

6 1. Pursuant to NRS 645C.460(2), if grounds for disciplinary action against an
7 appraiser are found to exist for unprofessional conduct, the Commission may revoke or
8 suspend the certificate, place conditions upon the certificate, deny the renewal of his or
9 her certificate, and/or impose a fine up to \$10,000.00 per violation.

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

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

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

20 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
21 for October 3-5, 2023, beginning at approximately 9:00 a.m. each day, or until
22 such time as the Commission concludes its business. The Commission meeting
23 will be held at the Nevada State Business Center, 3300 W. Sahara Avenue,
24 Nevada Room 4th Floor, Las Vegas, Nevada 89102, with video conference to:
25 Department of Business & Industry, 1818 E. College Parkway, Suite 103, Carson
26 City, Nevada 89076.

27 **STACKED CALENDAR:** Your hearing is one of several hearings that may
28 be scheduled at the same time as part of a regular meeting of the Commission

1 that is expected to take place on October 3-5, 2023. Thus, your hearing may be
2 continued until later in the day or from day to day. It is your responsibility to
3 be present when your case is called. If you are not present when your case is
4 called, a default may be entered against you, and the Commission may decide
5 the case as if all allegations in the complaint were true. If you need to negotiate
6 a more specific time for your hearing in advance, because of coordination with
7 out-of-state witnesses or the like, please call Maria Gallo, Commission
8 Coordinator, at (702) 486-4074.

9 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
10 open meeting under Nevada's Open Meeting Law (OML) and may be attended by the
11 public. After the evidence and arguments, the Commission may conduct a closed meeting
12 to discuss your alleged misconduct or professional competence. You are entitled to a copy
13 of the transcript of the open and closed portions of the meeting, although you must pay for
14 the transcription.

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

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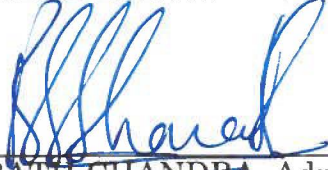
1 You have the right to request that the Commission issue subpoenas to compel
2 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
3 you may be required to demonstrate the relevance of the witnesses' testimony and/or
4 evidence. Other important rights you have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

6 DATED the 31 day of August, 2023.

DATED the 31 day of August, 2023.

7
8 NEVADA REAL ESTATE DIVISION

AARON D. FORD
Attorney General

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