

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, STATE OF NEVADA,

7 Petitioner,

8 vs.

9 KENT THE SOULE,
10 (License No. A.0007851-CR),

11 Respondent.

Case No. 2021-717, AP22.03.S

FILED

DEC 06 2023

NEVADA COMMISSION OF APPRAISERS

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12 **COMPLAINT AND NOTICE OF HEARING**

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 Deputy
15 Attorney General Christal P. Keegan, hereby notifies KENT THE SOULE (“Respondent”)
16 of an Administrative Complaint and 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 At all times relevant to this Complaint, the Respondent was a Certified Residential
24 Appraiser licensed by the Division, and therefore, is subject to the Jurisdiction of the
25 Division and the provisions of NRS and NAC Chapter 645C. By availing himself of the
26 benefits and protections of the laws of the State of Nevada, the Respondent has submitted
27 to the jurisdiction of the Division.

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1 **PROCEDURAL HISTORY**

2 1. The Division received a complaint alleging that the Respondent’s Appraisal
3 Report provided the wrong square footage for the Subject Property. 000002 – 000003.

4 2. The Division commissioned a Standard 3 Review of the underlying appraisal
5 performed by the Respondent. 00065 – 000101.

6 3. The Respondent has a history of prior discipline, and currently another open
7 case (Case No. 2021-897, AP22.008.S). 000107.

8 4. The Respondent has prior discipline for the same possible violations found in
9 this case, and therefore, the Division determined that this matter should be heard by the
10 Nevada Commission of Appraisers of Real Estate (“Commission”). 000107.

11 **FACTUAL ALLEGATIONS**

12 1. The Respondent has an active Nevada Certified Residential Appraiser,
13 License No. A.0007851-CR.

14 2. The Respondent prepared an Appraisal Report on a Fannie Mae Form 1004
15 for a single-family tract home located at 9140 Giardino Villa Street, Las Vegas, Nevada
16 89148 (“Subject Property”). 000019 – 000049.

17 3. On November 8, 2020, Respondent signed the Appraisal Report accepting
18 full responsibility for the contents of the Report including his analysis, opinions,
19 statements, conclusions, and certification. 000037.

20 4. The Appraisal Report’s Neighborhood section, Trends subsection, indicated
21 “Stable” value trends, and referenced the Market Conditions Addendum (“1004MC”),
22 however, the Addendum illustrated increasing median prices. 000021, 000034,
23 and 00073.

24 5. The 1004MC explained marketing time was about 90–120 days, however, the
25 median days on the market in the corresponding grid indicated otherwise. 000034,
26 and 000074.

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1 6. The 1004MC explained the sales to list price ratio was about 5% to 8%
2 higher, however, the median sales to list price ratio in the corresponding grid indicated
3 differently. *000034, and 000074.*

4 7. Further, the 1004MC had incomplete fields in the corresponding grid despite
5 this information's availability on the local Multiple Listing Service ("MLS"). *000034,*
6 *and 000074.*

7 8. The 1004MC incorrectly stated there were seven (7) listings, however, the
8 corresponding grid indicated there were nine (9) listings in the market area. *000034,*
9 *and 000080.*

10 9. The Appraisal Report's Improvements section described the kitchen and
11 bathrooms updated with a "timeframe unknown", however, the MLS photos appeared to
12 be original finishes and no detail describing the updates to the kitchen and baths were
13 provided. *000021, 000040, and 000079.*

14 10. Within the sales grid in the Appraisal Report's Sales Comparison Approach
15 section, adjustments were made to the gross living area, however, there was no data,
16 information, or documentation in the report or the work file to support these adjustments.
17 *000022, 000027, 000018 – 000063, and 000078.*

18 11. The sales grid incorrectly listed the address for Comparable #5 and instead
19 provided the same address as Comparable #4. *000027, and 000080.*

20 12. The sales grid demonstrated the most recent Comparable #1 sold for the
21 highest price, however, no upward market condition adjustments were applied in the
22 sales grid. *000022, and 000074.*

23 13. Further, Certification #9 reported adjustments to the comparable sales that
24 reflected the market's reaction to the differences between the Subject Property and the
25 comparables, however, there was no data, information, or documentation in the report, or
26 work file to support such certification. *000025, and 000071.*

27 14. The Appraisal Report's Cost Approach section stated reliance on local
28 market knowledge from analysis of sales gathered from Public Record and Greater Las

1 Vegas Association of Realtors (“GLVAR”), however, there was no supporting MLS
2 documentation for the comparables and/or land sales in the work file. 000023,
3 and 000072.

4 15. The Appraisal Report’s Addendum stated all adjustments in the report were
5 either based on “pair sales analysis”, however, there was no paired sales analysis data in
6 the work file. 000031, and 000070.

7 16. Alternatively, the Addendum stated all adjustments in the report were based
8 upon interview of a “local Real Estate Profession” without any credibility supporting such
9 method to extract market adjustments. 000031, and 000070.

10 17. The Addendum, Scope of Work section, Item #4, stated the cost of
11 improvements were then estimated based on the Marshall & Swift Residential Cost
12 Manual combined with local builder costs, however, the work file did not include
13 supporting cost sources. 000031, and 000072.

14 18. The Appraisal Report’s Addendum, Self Containment subsection, stated the
15 appraisal report was intended to be a “summary document”, however, the Uniform
16 Standards of Professional Appraisal Practice (“USPAP”) does not reference a summary
17 document. 000032, and 000080.

18 19. Further, the Addendum’s Self Containment subsection, stated the report
19 intended to contain all information necessary to enable the reader to understand the
20 appraiser’s opinion, however, the report lacked market derived adjustments, failed to
21 reconcile the lower value than Comparable #s 1 & 2, did not include data for completing
22 the Cost Approach, and/or was inconsistent in addressing and applying market derived
23 adjustments. 000032, and 000080.

24 20. The Addendum incorrectly used the extraordinary assumption generally
25 instead of specifically, by stating all improvements to the subject property were fully
26 functional unless otherwise noted, and/or redundantly since it was further covered in the
27 preset language. 000032, 000024 – 00025, and 000082.

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1 21. The Addendum, Scope of Work subsection, Item #4, generically described the
2 approach to value and improperly implied the cost approach was utilized to reconcile
3 value for a track home construction in the local market. 000031, and 000087.

4 22. The concluded value \$278,000, matched the contract price, which was below
5 the adjusted sold price for Comparables #1-3 without any specific verbiage to address the
6 reason. 000022, and 000079.

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8 **VIOLATIONS OF LAW**

8 The Respondent failed to prepare the appraisal report for the Property in
9 Compliance with the Standards of the Appraisal Foundation and the law. The applicable
10 Standards are published in the 2020-2021 Uniform Standards of Professional Appraisal
11 Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal
12 Foundation, as authorized by Congress, and adopted in Nevada by NAC 645C.400(1).

13 **First Violation**

14 The Respondent violated the 2020-2021 USPAP Ethics Rule by committing
15 misleading statements as to the scope of work performed when there was no evidence
16 such work was performed since the work file is unsupported.

17 Further, Respondent violated the Ethics Rule pursuant to violations of the Record
18 Keeping Rule by failing to include paired sales analysis in the work file.

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

22 **Second Violation**

23 The Respondent violated 2020-2021 USPAP Record Keeping Rule by failing to
24 sufficiently support the appraisal report, or work file, with data including the
25 adjustments extracted from the market.

26 Further, Respondent violated the Record Keeping Rule by failing to sufficiently
27 support the report, or work file, with data, information, or documentation to support land
28 value, dwelling costs, and/or depreciation in the Cost Approach.

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

4 **Third Violation**

5 The Respondent violated 2020-2021 USPAP Competency Rule by rendering his
6 appraisal services in a careless and/or negligent manner, without due diligence and/or
7 due care, by failing to include data in the appraisal report, or work file, for adjustments
8 and opinions regarding market data, for values and costs represented within the Cost
9 Approach, and/or failing to adjust for upward market conditions on the sales grid, which
10 as committed, appear arbitrary.

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

14 **Fourth Violation**

15 The Respondent violated 2020-2021 USPAP Scope of Work Rule by failing to
16 include the research and analyses necessary to develop credible assignment results, as
17 demonstrated by the lack of data in the appraisal report, or work file, indicating the
18 adjustments were extracted from market data.

19 Further, Respondent violated the Scope of Work Rule by committing inconsistent
20 statements regarding the data represented in the 1004MC and its corresponding grid.

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

24 **Fifth Violation**

25 The Respondent violated 2020-2021 USPAP Standards Rule 1-1(a) by failing to
26 properly make adjustments which are considered part of the recognized methods and
27 techniques necessary to produce a credible appraisal, when the appraisal report, or work

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1 file, did not include data, information or documentation to support the gross living
2 area adjustments.

3 Further, Respondent violated Standards Rule 1-1(a) for committing inconsistencies,
4 and missing information, in the report regarding market conditions and within the
5 sales grid.

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

9 **Sixth Violation**

10 The Respondent violated USPAP Standards Rule 1-1(c) by rendering his services in
11 a careless and/or negligent manner by committing a series of errors, to include: failing to
12 include specific verbiage to address the reason why the concluded value was below the
13 adjusted sold values for Comparables #s 1 - 3, providing no explanation in the
14 reconciliation section, nor any verbiage in the report stating if the sales contract price was
15 considered when reconciling value; failing to detail the updates to the Subject Property's
16 kitchen and bathrooms; making inconsistent indications for 7 listings when the
17 corresponding grid indicated 9 listings in the 1004MC; and/or by referencing a USPAP
18 summary document when there is no such reference in the uniform standards.

19 Further, Respondent violated Standards Rule 1-1(c) by failing to include sufficient
20 information in the report to support the opinions rendered, to include: lack of market
21 derived adjustments, not providing detail as to why the value was reconciled lower than
22 Comparables #s 1 & 2, nor data for completing the Cost Approach, and/or inconsistency in
23 addressing and applying market derived adjustments.

24 The Respondent's actions constitute unprofessional conduct pursuant to NRS
25 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
26 pursuant to NRS 645C.460(1)(a) and/or (b).

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1 **Seventh Violation**

2 The Respondent violated 2020-2021 USPAP Standards Rule 1-2(f) by incorrectly
3 using the extraordinary assumption in the report.

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

7 **Eighth Violation**

8 The Respondent violated 2020-2021 USPAP Standards Rule 1-2(h) by failing to
9 include the data in the appraisal report, or work file, indicating the adjustments were
10 extracted from market data.

11 Further, Respondent violated Standards Rule 1-2(h) by committing inconsistent
12 statements with the data represented in the 1004MC and its corresponding grid.

13 The Respondent's actions constitute unprofessional conduct pursuant to NRS
14 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
15 pursuant to NRS 645C.460(1)(a) and/or (b).

16 **Ninth Violation**

17 The Respondent violated 2020-2021 USPAP Standards Rule 1-4(a) in the Sales
18 Comparison Approach performed, by failing to analyze comparable sales data available as
19 evidenced by the lack of data in the appraisal report, or work file, to support adjustments
20 were extracted from market data.

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

24 **Tenth Violation**

25 The Respondent violated 2020-2021 USPAP Standards Rule 1-6(b) by failing to
26 reconcile the applicability and relevance of the approaches, methods and techniques
27 committed by providing generic verbiage regarding approaches to value and/or misusing
28 approaches that have no relevance to the Subject Property.

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

4 **Eleventh Violation**

5 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(a) for failing to
6 clearly and accurately set forth the appraisal in a non-misleading manner, by committing
7 representations in the scope of work that work was performed within the report but such
8 performance of work was not supported in the work file.

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

12 **Twelfth Violation**

13 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(b) by failing to
14 include sufficient information for the user to determine if value is credible and/or reliable
15 without market derived adjustments, inconsistent information and verbiage regarding
16 market conditions, and/or inconsistency in the data on the Market Conditions
17 Addendum's corresponding grid.

18 The Respondent's actions constitute unprofessional conduct pursuant to NRS
19 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
20 pursuant to NRS 645C.460(1)(a) and/or (b).

21 **Thirteenth Violation**

22 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(c) by failing to
23 clearly and accurately disclose all assumptions, when he incorrectly used an
24 extraordinary assumption, and further, already addressed in preset language in the
25 report's certification section.

26 The Respondent's actions constitute unprofessional conduct pursuant to NRS
27 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
28 pursuant to NRS 645C.460(1)(a) and/or (b).

1 **Fourteenth Violation**

2 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(a)(viii) by failing to
3 provide a summary in the appraisal report regarding the scope of work used to develop
4 the appraisal, specifically, the adjustments in the sales grid.

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 **Fifteenth Violation**

9 The Respondent violated 2020-2021 USPAP Standards Rule 2-2(a)(x), specifically
10 Items (1) and (5) for failing to summarize appraisal methods and summarize information
11 analyzed with support, as committed by the lack of explanation and support for
12 adjustments, including lack of market condition adjustments.

13 The Respondent's actions constitute unprofessional conduct pursuant to NRS
14 645C.470(2), as determined by NAC 645C.405(1) and grounds for disciplinary action
15 pursuant to NRS 645C.460(1)(a) and/or (b).

16 **Sixteenth Violation**

17 The Respondent violated 2020-2021 USPAP Standards Rule 2-2(a)(xiii) by failing to
18 clearly state all extraordinary assumptions, when he incorrectly used an extraordinary
19 assumption, and further, already addressed in preset language in the report's
20 certification section.

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

24 **DISCIPLINE AUTHORIZED**

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

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

4 3. 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
6 and 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
9 Chapter 233B and Chapter 645C of the Nevada Revised Statutes and Chapter 645C of the
10 Nevada Administrative Code.

11 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
12 for January 16 - 18, 2024, beginning at approximately 9:00 a.m. each day, or until
13 such time as the Commission concludes its business. The Commission meeting
14 will be held at the Nevada State Business Center, 3300 W. Sahara Avenue, Tahoe
15 Room 4th Floor, Las Vegas, Nevada 89102, with video conference to: Department
16 of Business & Industry, 1818 E. College Parkway, Suite 103, Carson City,
17 Nevada 89076.

18 **STACKED CALENDAR:** Your hearing is one of several hearings that may
19 be scheduled at the same time as part of a regular meeting of the Commission
20 that is expected to take place on January 16 - 18, 2024. Thus, your hearing may
21 be continued until later in the day or from day to day. It is your responsibility
22 to be present when your case is called. If you are not present when your case is
23 called, a default may be entered against you, and the Commission may decide
24 the case as if all allegations in the complaint were true. If you need to negotiate
25 a more specific time for your hearing in advance, because of coordination with
26 out-of-state witnesses or the like, please call Maria Gallo, Commission
27 Coordinator, at (702) 486-4074.

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

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

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

19
20 DATED the 5 day of December, 2023.

DATED the 4th day of December, 2023.

21
22 NEVADA REAL ESTATE DIVISION

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Attorney General

23
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