

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. 2021-897, AP22.008.S

FILED

DEC 05 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 from the Appraisal Management
3 Company (“AMC”) (license number AMC.0000143) alleging that the Respondent was to
4 complete a COVID-19 Desktop appraisal but failed to research available materials to
5 determine condition and upgrades, did not provide a market reaction for the Subject
6 Property backing a community pool, nor did he provide support for lack of condition
7 adjustments. *000002 - 000003.*

8 2. The Division commissioned a Standard 3 Review of the underlying appraisal
9 performed by the Respondent. *000127 - 000169.*

10 3. The Respondent has a history of prior discipline, and currently another open
11 case (Case No. 2021-717, AP22.03.S). *000177.*

12 4. The Respondent has prior discipline for the same possible violations found in
13 this case, and therefore, the Division determined that this matter should be heard by the
14 Nevada Commission of Appraisers of Real Estate (“Commission”). *000177.*

15 **FACTUAL ALLEGATIONS**

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

18 2. The Respondent prepared an Appraisal Report on a Fannie Mae Form 1004
19 for a single-family tract home located at 2547 Speyburn Avenue, Henderson, Nevada
20 89044 (“Subject Property”). *000013 - 000078.*

21 3. On April 18, 2021, Respondent signed the Appraisal Report accepting full
22 responsibility for the contents of the Report including his analysis, opinions, statements,
23 conclusions and certification. *000020.*

24 4. In the Appraisal Report’s Subject section, the legal description was not fully
25 stated based on public record information. *000048, 000083 and 000147.*

26 5. In the Appraisal Report’s Subject section, the neighborhood name was
27 spelled incorrectly and a portion of the legal description “Insperda Pod 7-3”, instead of the
28 neighborhood name which is “Inspirada”. *000048, and 000147.*

1 6. In the Appraisal Report's Subject section, the special assessment was stated
2 as the total assessment instead of the total annual amount paid. 000048, 000058,
3 000089, and 000147.

4 7. At all times relevant, the Subject Property was two years old, but the
5 effective age was noted as one year old without any explanation for the difference.
6 0000147.

7 8. The Appraisal Report's Neighborhood section, Boundaries subsection,
8 indicated the incorrect boundaries for the Subject Property's master plan. 000048,
9 000133, and 000167.

10 9. Further, Comparables #s 1-3, and 6, are located in the Subject Property's
11 adjacent age restricted, master planned community, however, the Subject Property was
12 located in a non-age restricted community. 000049, 000054, and 000133.

13 10. Further, unlike the Subject Property, Comparable # 5 was located within a
14 guard gated, golf course community with a country club. 000054, and 000133.

15 11. Also, Comparable #4 was a new model home sale when the Subject Property
16 was a re-sale. 000054, and 0000134.

17 12. In the Appraisal Report's Neighborhood section, the Built-Up area was
18 indicated as 75%, however, the Addendum stated the Subject Property was located within
19 a "new develop area". 000048, 000057, and 000148.

20 13. The Addendum provided justifications for expanding the parameters beyond
21 the one-mile radius but failed to include that the master plan/market area itself was
22 larger than one mile. 000057, and 0000148.

23 14. The Appraisal Report's Additional Comments section, Analysis subsection,
24 represented all selected comparables were within the Subject Property's one-mile
25 competitive market area, however, five of the six comparables in the sales grid were
26 farther than one mile. 000050, 000049, 000054, and 000133.

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1 15. The Appraisal Report's Addendum stated swimming pools and spas had each
2 been adjusted at \$10,000 without clarifying why they would have the same value in the
3 market since they have a different utility. *000058, and 000148.*

4 16. In the Appraisal Report's Improvements section, condition was noted as C3
5 with kitchen and bathrooms updated "one to **five years ago**", however, the Subject
6 Property was only two years old (**emphasis added**). *000048, and 0000147.*

7 17. In the revised report dated April 21, 2021, the Addendum's Revision section
8 appeared to use the words remodeling and updates differently than the Uniform
9 Appraisal Dataset Definitions ("UADD"). *000048, 000058, 000077 - 000078, 000055,*
10 *and 000147.*

11 18. As a two-year old property, the Subject Property met the definition of C2
12 condition, but was rated as a C3 condition without clarification. *000055, 000048, 000058,*
13 *and 000147.*

14 19. Further, the Subject Property was rated C3 based on the fact that it was
15 owner occupied without any clarification how occupancy is relevant to condition. *000058,*
16 *and 000147.*

17 20. The Appraisal Report's Improvement's section represented the interior
18 materials/condition was unknown, however, Multiple Listing Service ("MLS") photos and
19 the listing provided indication of flooring finishes. *000048, 000067, 000090, and 000148.*

20 21. The sales grid within the Appraisal Report's Sales Comparison Approach
21 indicated the view for all comparables was neutral, however, some of the comparables had
22 beneficial views, such as golf frontage and/or city lights views. *000049, 000054*
23 *and 000134.*

24 22. Further, all views in the sales grid were indicated as "N;Res;Res" without
25 clarification why Res was noted twice. *000049, 000054, and 000148.*

26 23. In the sales grid, Comparable #2 stated it had 40 total bedrooms, when it
27 only had seven (7). *000049, and 000148.*

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1 24. The Report's Neighborhood section, Trends subsection, indicated "Stable"
2 value trends and referenced the Market Conditions Addendum ("1004MC"), however, the
3 Addendum illustrated increasing median prices. 000048, 000062, and 000137.

4 25. The 1004MC explained marketing time was about 90-120 days, which was
5 not reflected in the median days on the market in the corresponding grid. 000048,
6 000062, and 000148.

7 26. The 1004MC, Summary Section, explained the sales to list price ratio was
8 about 5% to 8% higher, which was not reflected in the median sales to list price ratio in
9 the corresponding grid. 000062, and 000148.

10 27. Further, the 1004MC had incomplete fields in the corresponding grid despite
11 this information's availability on the local Multiple Listing Service ("MLS"). 000062,
12 and 000148.

13 28. Further, Certification #9 reported adjustments to the comparable sales that
14 reflected the market's reaction to the differences between the Subject Property and the
15 comparables, however, there was no data, information, or documentation in the report, or
16 work file to support such certification. 000052, and 000135.

17 29. In the Appraisal Report's Appraisal Report's Cost Approach section stated
18 reliance on local market knowledge from analysis of sales gathered from Public Record
19 and Greater Las Vegas Association of Realtors ("GLVAR"), however, there was no
20 supporting MLS documentation for the comparables and/or land sales in the work file.
21 000050, and 000135.

22 30. The Appraisal Report's Addendum stated all adjustments in the report were
23 either based on "pair sales analysis", however, there was no paired sales analysis data in
24 the work file. 000058, and 000132.

25 31. Alternatively, the Addendum stated all adjustments in the report were based
26 upon interview of a "local Real Estate Profession" without any credibility supporting such
27 method to extract market adjustments. 000058, and 000132.

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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, in 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 Further, Respondent violated the Competency Rule for choosing comparable sales
12 from market areas with different appeal when there were a significant number of
13 comparables within the Subject Property's market area.

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

17 **Fourth Violation**

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

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

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 **Fifth Violation**

2 The Respondent violated 2020-2021 USPAP Standards Rule 1-1(a) by failing to
3 properly make adjustments which are considered part of the recognized methods and
4 techniques necessary to produce a credible appraisal, when he noted the market
5 conditions were increasing but did not perform upward market condition adjustments in
6 the sales grid.

7 Further, Respondent violated Standards Rule 1-1(a) by failing to properly make
8 comparable selections and reconciliations which are recognized methods and techniques
9 necessary to produce a credible appraisal, when he did not choose comparables within the
10 Subject Property's market area despite there being a significant number available,
11 misstating comparables had neutral residential views when some had beneficial views,
12 and/or using a new model home sale when the Subject Property was a resale without any
13 explanation and/or reconciliation.

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

17 **Sixth Violation**

18 The Respondent violated USPAP Standards Rule 1-1(b) by committing substantial
19 error of omission or commission that significantly affected the appraisal, when he omitted
20 significant factors and characteristics of the comparable sales which were all superior to
21 the Subject Property.

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

25 **Seventh Violation**

26 The Respondent violated 2020-2021 USPAP Standards Rule 1-1(c) by rendering his
27 services in a careless and/or negligent manner by committing a series of errors, to include:
28 not fully stating the legal description despite such information being publicly available,

1 **Ninth Violation**

2 The Respondent violated 2020-2021 USPAP Standards Rule 1-4(a) in the Sales
3 Comparison Approach performed, by failing to analyze comparable sales data available
4 when he did not perform upward market condition adjustments in the sales grid.

5 Further, Respondent violated Standards Rule 1-4(a) by failing to choose
6 comparables within the Subject Property's market area despite there being a significant
7 number available, misstating comparables had neutral residential views when some had
8 beneficial views, and/or using a new model home sale when the Subject Property was a
9 resale without any explanation and/or reconciliation.

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

13 **Tenth Violation**

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

18 Respondent further violated Standards Rule 2-1(a) by failing to choose comparables
19 within the Subject Property's market area despite there being a significant number
20 available, misstating comparables had neutral residential views when some had
21 beneficial views, and/or using a new model home sale when the Subject Property was a
22 resale without any explanation and/or reconciliation.

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

26 **Eleventh Violation**

27 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(b) by failing to
28 include sufficient information for the user to determine if value was credible and/or

1 reliable without market derived adjustments, inconsistent information and verbiage
2 regarding market conditions, and/or when all the comparables used in the sales grid had
3 superior characteristics compared to the Subject Property.

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 **Twelfth Violation**

8 The Respondent violated 2020-2021 USPAP Standards Rule 2-1(a)(viii) by failing to
9 provide a summary in the appraisal report regarding the scope of work used to develop
10 the appraisal, specifically, the adjustments in the sales grid, market conditions and data,
11 nor determined comparable selection and reconciliation.

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

15 **Thirteenth Violation**

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

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 **DISCIPLINE AUTHORIZED**

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

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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 4 day of December, 2023.

DATED the 4th day of December, 2023.

21 NEVADA REAL ESTATE DIVISION

AARON D. FORD
Attorney General

22
23 By: 
24 SHARATH CHANDRA, Administrator
25 3300 W. Sahara Avenue, Suite 350
26 Las Vegas, Nevada 89102
27 Telephone: (702) 486-4033

By: 
CHRISTAL PARK KEEGAN, ESQ.
Deputy Attorney General
Bar No. 12725
5420 Kietzke Lane, #202
Reno, Nevada 89511
Telephone: (775) 687-2141
Email: ckeegan@ag.nv.gov
Attorney for Real Estate Division