

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. 2020-1080, AP21.024.S

Petitioner,

7 vs.

**COMPLAINT AND NOTICE OF
HEARING**

FILED

SEP 01 2023

NEVADA COMMISSION OF APPRAISERS

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9 JOSHUA RYAN STALK
10 (License No. A.0207120-RES),

11 Respondent.

12
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 JOSHUA RYAN STALK
16 (“Respondent”) of an administrative complaint and hearing which is to be held pursuant
17 to Chapter 233B and Chapter 645C of the Nevada Revised Statutes (“NRS”) and Chapter
18 645C of the Nevada Administrative Code (“NAC”). The purpose of the hearing is to
19 consider the allegations stated below and to determine if the Respondent should be
20 subject to a disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated
21 allegations are proven at the hearing by the evidence presented.

22 **JURISDICTION**

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

27 **PROCEDURAL HISTORY**

28 1. On December 2, 2020, the Division received a complaint from Fannie Mae

1 Loan Quality Center, which stated that the RESPONDENT's appraisal report
2 (hereinafter "Appraisal Report") contained inappropriate comparable sales. [NRED 0003-
3 0042; 0052].

4 2. The Division opened an investigation into this matter on December 3, 2020,
5 and issued an open investigation letter to RESPONDENT requesting a response and the
6 entire work file and documentation. [NRED 0138].

7 3. The Division commissioned a Standard 3 Review of the Appraisal Report.
8 [NRED 0145-0164].

9 4. The Respondent's counsel submitted a December 23, 2020, response letter to
10 the Standard 3 Review, as well as RESPONDENT'S work file. [NRED 0044-0050; 0051-
11 0136.]

12 5. Following the investigation and Standard 3 Review, the investigator
13 recommended the case be heard by the Appraisal Advisory Review Committee ("AARC").
14 [NRED 0139-0144].

15 6. This case was heard by the AARC on April 18, 2023, and the Committee's
16 Report recommended that this case 2020-1080 be forwarded to the Commission. [NRED
17 0334-0337].

18 **FACTUAL ALLEGATIONS**

19 7. The Respondent prepared an Appraisal Report for a 2,395 sq. ft., one-story, 4
20 br/3 bath single family residence, built in 1963 and located at 4105 Via Vaquero, Las
21 Vegas, Nevada 89102, APN # 162-06-812-071 ("Property"). [NRED 0003-0042].

22 8. The Appraisal Report's assignment type was noted as "Refinance
23 Transaction" and indicated value conclusion of \$399,000.00 by Sales Comparison
24 Approach. [NRED 0004-0005].

25 9. The effective date of the report was indicated as May 18, 2019, and the date
26 of signature of the report was May 30, 2019. [NRED 0011].

27 10. On May 29, 2019, Respondent received a clarification request noting that
28 "[m]arket data suggests that [Respondent's selected] comps may be from a superior

1 market” and requesting that Respondent consider additional sales. [NRED 0068-0069].

2 11. Respondent prepared a May 30, 2019, addendum in response to the May 29,
3 2019, request for clarification. [NRED 0016-0037].

4 12. The Appraisal Report’s work file lacked items to substantiate proof of
5 market stability, housing statistic value, or proof that the subject property “has no
6 observed functional or external obsolescence.” [NRED 0100; 0139; 0149-0151].

7 13. The Appraisal Report and work file lacked support for adjustments to sales
8 grid, size of site adjustment, bath count adjustment, GLA adjustment, garage count
9 adjustment, porch/patio/deck adjustment, pool adjustment, fireplace adjustment, upgrade
10 adjustment, and location adjustment for all comparables. [NRED 0100-0110; 0140-0141;
11 0149-0151].

12 14. The work file lacked proof, analysis or testing to support the following
13 statements found in the Appraisal Report:

- 14 a. Statements found in the cost approach section that “land value derived by
15 allocation” and “[a]verage list price to sales price ratio is 109%. Average
16 marketing time is 20 +/- days.” [NRED 0102; 0111; 0140];
- 17 b. Site comments that “[t]he external influence, if any, may or might not be a
18 factor in the sale of the subject”, “[t]he appraiser was unable to isolate and
19 quantify an adjustment for comparison,” and “[t]he comparables are located
20 within the subject development and adjoining development are similarly
21 affected.” [NRED 0108; 0139];
- 22 c. Comment in the sales comparison approach section “[a]s set by the
23 appraisers' peers for the subject market area and/or a combination thereof;”
24 [NRED 0109; 0139];
- 25 d. Statements that “no location adjustment is warranted” and that “[t]he gross
26 living area adjustments were derived from the allocation method...” [NRED
27 109; 0139]; and
- 28

1 e. Statements that “[a]ll comparables are located in the same zip code (89102)
2 and the same market area (MLS#501). Therefore; there was no adjustment
3 for market area location.” [NRED 0110; 0139].

4 15. The work file contained no analysis related to real estate values correlating
5 with postal zip codes and MLS market area and contained no MLS or tax data sheets.
6 [NRED 110; 0139].

7 16. On or about April 26, 2023, the Division mailed to the Respondent a follow-
8 up letter pursuant to NRS 233B, indicating that the Division’s investigation had
9 uncovered sufficient evidence to recommend the filing of a formal complaint by the
10 Division with the Commission of Appraisers of Real Estate. [NRED 0338-0339].

11 **VIOLATIONS OF LAW**

12 The Respondent failed to prepare the appraisal report for the Property in
13 Compliance with the Standards of the Appraisal Foundation and the law. The Standards
14 are published in the Uniform Standards of Professional Appraisal Practice (“USPAP”)
15 adopted by the Appraisal Standards Board of the Appraisal Foundation, as authorized by
16 Congress, and adopted in Nevada by NAC 645C.400(1).

17 **First Violation**

18 The USPAP RECORD KEEPING RULE requires an appraiser to properly prepare
19 a work file for each appraisal or appraisal review assignment. A work file must be in
20 existence prior to the issuance of any report or other communication of assignment
21 results. A written summary of an oral report must be added to the work file within a
22 reasonable time after the issuance of the oral report. The work file must include all other
23 data, information, and documentation necessary to support the appraiser’s opinions and
24 conclusions and to show compliance with USPAP, or references to the location(s) of such
25 other data, information, and documentation.

26 The Respondent violated USPAP RECORD KEEPING RULE by failing to maintain
27 an adequate work file that meets the minimum standards of USPAP. The appraisal
28 report work file is considered “very weak” and indicates a lack of understanding of what is

1 required to meet the RECORD KEEPING RULE.

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 **Second Violation**

6 The USPAP COMPETENCY RULE requires an appraiser to 1) be competent to
7 perform the assignment; (2) acquire the necessary competency to perform the assignment;
8 or (3) decline or withdraw from the assignment.

9 The Respondent violated USPAP COMPETENCY RULE by demonstrating a lack
10 of knowledge of what constitutes a "Comparable Market Area," the concept and
11 development of location adjustments, and the concept and development of market-derived
12 adjustments. The Respondent also demonstrated a lack of understanding of a home that
13 is an over-improvement for the market and lacked the knowledge and development of
14 adjustments caused by externalities.

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

18 **Third Violation**

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

23 Respondent violated Standards Rule 1-1(a) by relying on untested assumptions,
24 improperly developed adjustments, and a lack of understanding of externalities, market
25 definition, location adjustments and overimproved properties.

26 Respondent violated Standards Rule 1-1(b) by erring in market selection,
27 comparable selection, effects of externalities, and location differences.

28 The Respondent's actions constitute unprofessional conduct pursuant to NRS

1 645C.470(2), as determined by NAC 645C.405(1) and (2) and grounds for disciplinary
2 action pursuant to NRS 645C.460(1)(a) and/or (b).

3 **Fourth Violation**

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

9 Respondent violated Standards Rule 1-3(b) by providing only a minimal discussion
10 of highest and best use in the Appraisal Report or work file.

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 **Fifth Violation**

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

19 The Respondent violated Standards Rule 1-4(a) by limiting comparable selection to
20 larger Gross Living Area homes in superior neighborhoods, while overlooking many sales
21 nearby, including within the property's subject subdivision, within the 12 months prior to
22 date of value.

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 **Sixth Violation**

27 USPAP Standards Rule 1-4(b) requires an appraiser to (i) develop an opinion of site
28 value by an appropriate appraisal method or technique.

1 The Respondent violated Standards Rule 1-4(b)(i) by referring to “allocation
2 method” yet providing no evidence of allocation calculations in either the Appraisal
3 Report or work file.

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 **Seventh Violation**

8 USPAP Standards Rule 1-6(a) requires an appraiser to (a) reconcile the quality and
9 quantity of data available and analyzed within the approaches used.

10 The Respondent violated Standards Rule 1-6(a) by failing to discuss the quality and
11 quantity of data in the reconciliation section of the Appraisal Report.

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 **Eighth Violation**

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

20 In violation of Standards Rule 2-1(a) the Respondent’s Appraisal Report used sales
21 that are measurably superior in location, failed to use market supported adjustments
22 (location, externality, GLA, etc.), and failed to discuss and analyze the subject property’s
23 over improvement in relation to the market.

24 In violation of Standards Rule 2-1(b) the lack of discussion and application of
25 market supported location adjustments leaves the reader unable to understand the
26 report.

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 **DISCIPLINE AUTHORIZED**

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

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

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

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

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

24 **STACKED CALENDAR:** Your hearing is one of several hearings that may
25 be scheduled at the same time as part of a regular meeting of the Commission
26 that is expected to take place on October 3-5, 2023. Thus, your hearing may be
27 continued until later in the day or from day to day. It is your responsibility to
28 be present when your case is called. If you are not present when your case is

1 called, a default may be entered against you, and the Commission may decide
2 the case as if all allegations in the complaint were true. If you need to negotiate
3 a more specific time for your hearing in advance, because of coordination with
4 out-of-state witnesses or the like, please call Maria Gallo, Commission
5 Coordinator, at (702) 486-4074.

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

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

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8 NEVADA REAL ESTATE DIVISION

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