

# NEVADA APPRAISAL REPORT

Department of Business & Industry, Real Estate Division

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## HR 4173 – HOW IT MAY IMPACT APPRAISERS

President Obama signed H.R. 4173 into law on July 21, 2010. The law contains numerous revisions to Title XI of the Financial Institution Reform, Recovery, and Enforcement Act (FIRREA) of 1989. To follow are some of the changes that will impact licensed and certified real property appraisers:

**HVCC** - Effective on the final date the interim final regulations are promulgated, the Home Valuation Code of Conduct shall have no force or effect.

Although the HVCC is being eliminated, the bill includes strong language regarding appraiser independence. It is unlawful for a person with an interest in the underlying transaction to coerce, extort, collude, instruct, induces, bribe or intimidate the appraiser or Appraisal Management Company for the purpose of seeking to influence an appraiser

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## REGISTRATION/REGULATION of APPRAISAL MANAGEMENT COMPANIES

Assembly Bill 287, from the 2009 Legislative Session, requiring appraisal management companies (AMC) to register in the State of Nevada took effect 1-1-10 with the regulations being adopted at the March 2010 commission hearing. The regulations were then approved by LCB and became effective on Monday 4-20-10.

What is an AMC? A person, limited-liability company, partnership, association or corporation which for compensation: (a) Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services; (b) Administers a network of appraisers performing real estate appraisal services as independent contractors; (c) Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or (d) Otherwise serves as a third-party broker of appraisal services.

The legislation provides two exemptions from registration: 1) a person, limited-liability company, partnership, association or corporation other than an AMC which in the normal course of business, employs a person to perform appraisals (Employee of the company) 2) an appraisal management company that assigns no more than 9 appraisals annually to independent contractors in Nevada.

Requirements of the AMC. 1) The AMC must have a process in place to verify that each appraiser providing services to the company

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or other wise to encourage a targeted value in order to facilitate the making or pricing of a transaction. Further, it is unlawful to withhold or threatening to withhold timely payment for appraisal services rendered.

This does not prohibit the appraiser from being asked to consider, 1) additional appropriate property information, including consideration of additional comparable properties, 2) provide further detail, substantiation, or explanation for the appraiser's value conclusion, and 3) correct errors in the appraisal report.

**MANDATORY REPORTING** - Any mortgage lender, mortgage broker, mortgage banker, real estate broker, AMC or any other person involved in a real estate transaction involving an appraisal who has a reasonable basis to believe the appraiser is failing to comply with USPAP or violating applicable laws or is otherwise engaging in unethical or unprofessional conduct shall report the matter to the Division.

**APPRAISAL PORTABILITY** – The Comptroller of Currency, Federal Deposit Insurance Corp. (FDIC), National Credit Union Administration Board, Federal Housing Finance Agency and the Bureau may jointly issue regulations to ensure the portability of the appraisal report between lenders for a consumer credit transaction. Appraisers may not re-assign the report without permission from the client.

**CUSTOMARY and REASONABLE FEES** – Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised.

**APPRAISAL MANAGEMENT COMPANIES** - State appraiser regulatory agencies shall enforce the minimum requirements established by The Appraisal Subcommittee (ASC) for the registration and regulation of

Appraisal Management Companies (AMC). See *Registration of Appraisal Management Companies*, page 1.

**Brokers Price Opinion (BPO)** - Is defined as “An estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real property and provides a varying level of detail about the property’s condition, market, and neighborhood, and information on comparable sales but does not include an automated valuation model.”

In conjunction with the purchase of a consumer’s principal dwelling, a BPO may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan.

**NATIONAL REGISTRY FEES** – The current fee is set at \$25 with a cap of \$50, the new limits are \$40 with a cap of \$80. The Division has been notified that the fee will increase from the current \$25 to \$40 effective 1-1-12.

**TEMPORARY PRACTICE** – The Appraisal Subcommittee (ASC) shall gain the authority to establish regulations that relate to temporary practice, reporting specific information to the National Registry and Information sharing and enforcement.

**LICENSED REAL PROPERTY CRITERIA** – Now voluntary for the states shall become mandatory for those states that have the credential.

**TRAINEE (INTERN)/SUPERVISORY APPRIASERS** – The criteria adopted by the Appraiser Qualifications Board (AQB) for Trainee (Intern) Appraisers and Supervisory Appraisers, currently voluntary shall become mandatory for all states that have enacted a Supervisor/Trainee (Intern) program.

**COMPLAINT HOTLINE** – There shall be a National complaint hotline established.

## COMMISSION MEMBERS

MICHAEL CHESHIRE, President Las Vegas (Clark County)	APPOINTED: 07/01/2008 TERM EXPIRES: 06/30/2011
STEPHEN R. JOHNSON, VP Zephyr Cove (Douglas County)	APPOINTED: 07/24/2009 TERM EXPIRES: 06/30/2012
RICHARD NEWMILLER, Secretary Las Vegas (Clark County)	APPOINTED: 07/01/2010 TERM EXPIRES: 06/30/2013
SUSAN WREN, Commissioner Reno (Washoe County)	APPOINTED: 07/01/2009 TERM EXPIRES: 06/30/2012
GREGORY JACKSON Reno (Washoe County)	APPOINTED: 07/16/2010 TERM EXPIRES: 06/30/2013

## 2011 COMMISSION HEARING SCHEDULE

MARCH 1-3, 2011

LAS VEGAS

JUNE 7-9, 2011

LAS VEGAS

AUGUST 30 – SEPTEMBER 1, 2011

TBD

NOV 29 – DECEMBER 1, 2011

TBD

Meeting agendas with location and start time will be posted at least three days prior to the meeting on our website [www.red.state.nv.us](http://www.red.state.nv.us) under Commissions. **PLEASE NOTE:** The meeting may not last the entire three days. If you are attending for Intern credit or to obtain continuing education credit you may want to attend the first day.

on property located in Nevada holds an active license/certification in this State. 2) The AMC must have a process in place to review the work of each independent contractor that provides services to the appraisal management company to ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice. The reviewer must be a licensed appraiser or certified appraiser in the State of Nevada. 3) The AMC must maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request. 4) The appraisal management company must disclose to the appraiser for each assignment the total amount of money: (a) paid to the appraiser; and (b) retained by the appraisal management company.

Requirements of the Licensee. 1) The licensee is required to assure the AMC is registered in the State of Nevada prior to accepting an assignment or obtain documentation that they contract not more than nine appraisal assignments per year in this State. 2) Disclose in the body of the report: The total amount of money (a) paid to the appraiser; and (b) retained by the appraisal management company.

It is important to note that NAC 645C.405 was amended to add that a licensed or certified appraiser or registered intern is guilty of unprofessional conduct or professional incompetence, if the appraiser or intern: ***Has completed an appraisal assignment for an appraisal management company that is not registered in this State with the knowledge that the appraisal management company is not registered in this State.***

For more information on the registration of AMC's or to look an AMC up to verify they are registered in Nevada please see our website [www.red.state.nv.us](http://www.red.state.nv.us) (click on License Lookup)

# NATIONAL REGISTRY

The Division submits licensing data to The Appraisal Subcommittee (ASC) on the 10<sup>th</sup> of every month. The ASC typically downloads that information within 24-48 hours.

In order to assure that your data is updated prior to your expiration date renew early. You may renew your license 8 weeks prior to the expiration date. Renewing late in your expiration month will cause your license so show as expired on the Registry for ten days.

Example: Your license expires on May 31, 2011 and you renew your license on May 15, 2011. That renewal will not be reported to the Registry until June 10, 2011.

## RENEW EARLY!

### BROKER'S PRICE OPINIONS

In the 2009 legislative session Nevada Revised Statutes 645 was amended by adding the definition of Brokers Price Opinion (BPO) what they may be used for and the requirements for preparing one.

Here is a link to NRS 645.2515.

<http://www.leg.state.nv.us/nrs/nrs-645.html>

To follow are frequently asked question we are receiving at the Division:

Q. Can appraiser perform BPO's?

A. Only if you can perform the BPO and comply with Standards Rule 1 and 2.

Q. Can a lender use a BPO in lieu of an appraisal to determine whether to approval a mortgage loan?

A. No.

Q. If a BPO is not performed properly who do we report it to?

A. Nevada Real Estate Division, Compliance section.

### ACTIVE APPRAISER COUNT

(As of February 1, 2011)

Certified General	451
Certified Residential	574
Licensed Residential	181
<u>Registered Intern</u>	<u>95</u>
TOTAL	1301

### Appraiser Examination Results

2009	<u>Took</u>	<u>Passed</u>
Certified General	4	2
Certified Residential	26	7
Licensed	6	3
2010	<u>Took</u>	<u>Passed</u>
Certified General	6	5
Certified Residential	8	3
Licensed	0	0

### FREE CONTINUING EUDCATION CREDIT

Did you know that you can attend an Appraisal Commission meeting and receive up to six hours of continuing education credit per renewal cycle at no cost?

In order to receive credit, you may not be a participant in or otherwise affiliated with a disciplinary hearing at the hearing which you are attending.

Simply sign in and out at the door, on the CE sign in sheet and stay for at least two hours. Certificates will be mailed within 7-10 days.

See the list of dates of meeting on page 3. Check our website three days prior to the meeting date for time and location. Please note the meetings do not always last three days so it is always best to plan on attending on the first day. Meetings and dates are subject to change. [www.red.state.nv.us](http://www.red.state.nv.us)

# Disciplinary Action

*Note: The following is a summary of recent disciplinary actions imposed by the Nevada Commission of Appraisers of Real Estate. This is only a summary of the written decisions of the Commission. For brevity, some of the facts and conclusions may have been edited out. Because these are summaries only, and because each case is unique, and fact specific, these summaries should not be relied on as precedent as to how similar cases may be handled.*

## MARCH 2010

## JUNE 2010

### **Stephen Body**

The Commission accepted a Voluntary Surrender in Lieu of Other Discipline of Mr. Body's certified residential license.

### **Attila Haeberle**

The Commission approved a Stipulation for Settlement in which Mr. Haeberle agreed to pay a fine in the amount of \$750 for accepting an appraisal assignment, collecting a fee and subsequently failing to produce a report.

### **Hayden Meier**

At a formal hearing the Commission found that Mr. Meier failed to cooperate with the Division in an investigation. Mr. Meier was not present at the hearing. The Commission ordered his license be revoked.

### **Nick Reyes**

The Commission accepted a Voluntary Surrender in Lieu of Other Discipline of Mr. Reyes' certified residential license.

### **Dianne Sealey**

After a formal hearing, the Commission found that Ms. Sealey had appraised at least eight condominium units representing to the lenders that the units were typical single family residential condominiums when they were being marketed as condo/hotel. Ms. Sealey failed to disclose incentives such as lease backs, club memberships and tangible furniture. Further, complete workfiles were not maintained. In another case, Ms. Sealey failed to report a prior sale of the subject, failed to report sales concessions and failed to report the subject was in a gated community. In the final case Ms. Sealey provided the requested information to the Division but subsequently failed to respond to the Division's investigation. The Commission ordered Ms. Sealey to complete 15 hours of education, reimburse the Division for the costs and fees of the investigation and hearing in the amount of \$12,595.11 and pay a fine in the amount of \$25,000. Further, upon renewal of her license, it will be downgraded from a certified residential to licensed residential and she will be required to work under the supervision of a certified appraisers for 36 months.

### **Rodney Clough**

The Commission accepted a Stipulation for Settlement in which Mr. Clough agreed to pay a fine in the amount of \$7000 and take a three hour Nevada law course for allowing an unregistered intern to assist in the preparation of appraisals in Nevada without first obtaining the appropriate registration.

### **Brandon Combs**

After a formal hearing the Commission found that Mr. Combs prepared an appraisal on a condominium unit and failed to disclose and analyze the sales contracts and the dates of the comparable sales. Much of the data in the report was reported as "unknown" or "unavailable" and there were numerous errors in the report causing the appraisal to be misleading. The Commission ordered Mr. Combs to pay a fine in the amount of \$7000, to pay the cost of the investigation/hearing in the amount of \$5000 and to complete 30 hours of education.

### **Desiree Flanary**

The Commission approved a Stipulation for Settlement in which Ms. Flanary agreed to pay a fine in the amount of \$5000 for assisting in the preparation of an appraisal without first obtaining the appropriate registration.

### **Fred Pinjuv**

The Commission accepted a Voluntary Surrender in Lieu of Other Discipline of Mr. Pinjuv's certified residential license.

### **Anthony Schroeder**

Mr. Schroeder completed an appraisal on a commercial/single family residence but failed to analyze and disclose the commercial use of the subject, and made numerous errors in the report causing the appraisal to be misleading. Mr. Schroeder was working outside the scope of his license. The Commission Ordered Mr. Schroeder to pay a fine in the amount of \$5000 and costs and fees associated with the investigation/hearing in the amount of \$3,663.25. Mr. Schroeder's license is expired in Nevada, should he reapply for licensure in the future he will have to appear before the Commission.

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**Paul Kessin**

After an Advisory Review Committee meeting Mr. Kessin entered into a Stipulation for Settlement in which he agreed to a 30 day suspension of his license, to have 20 appraisals reviewed after the reinstatement of his license and to complete 28 hours of education. The Committee found that Mr. Kessin prepared an appraisal outside the scope of his license and he was not competent to appraise the subject.

**Deborah Rutherford**

The Advisory Review Committee found that Ms. Rutherford appraised a single family residence on three occasions and failed to properly keep the work files and made numerous errors in the report causing the appraisal to be misleading. Ms. Rutherford entered into a Stipulation for Settlement in which she agreed to have the first 10 ten complex appraisals she completes after the approval of the stipulation reviewed by a certified appraiser and to complete 32 hours of education. The Commission approved the settlement.

**Nathan Slaman**

The Advisory Review Committee determined Mr. Slaman completed an appraisal of a single family residence in which he failed to report that the subject had been listed in the past twelve months, failed to analyze comparable sales data available at the time of the appraisal and made numerous errors in the report causing the appraisal to be misleading. Mr. Slaman entered into a Stipulation for Settlement in which he agreed to complete 25 hours of education.

**Arturo Valdovinos**

The Advisory Review Committee determined that in the preparation of an appraisal of a single family residence in Las Vegas, Mr. Valdovinos failed to use the most comparable sales available at the time of the appraisal, failed to make market supported adjustments and made numerous errors in the report causing the appraisal to be misleading. Mr. Valdovinos entered into a Stipulation for Settlement in which he agreed to complete 60 hours of education.

## SEPTEMBER 2010

**Andrew Allan**

The Commission approved a Stipulation for Settlement in which Mr. Allan agreed to pay a fine in the amount of \$5000 for assisting in the preparation of an appraisal without first obtaining the appropriate license.

**Marc Nassif**

The Commission approved a Stipulation for Settlement in which Mr. Nassif agreed to pay a fine in the amount

of \$5000 for assisting in the preparation of an appraisal without first obtaining the appropriate license.

**Steven Williams**

The Commission approved a stipulated agreement wherein Mr. Williams agreed to pay a fine in the amount of \$10,000 and complete an Advanced Income Capitalization course. Mr. Williams completed an appraisal of vacant land and failed to properly analyze the comparable sales data as compared to the subject property, failed to properly develop the highest and best use of the subject, failed to make appropriate adjustments to the comparable sales with dissimilar characteristics and failed to keep a complete workfile.

**Sonya Sampson**

The Commission accepted a Voluntary Surrender in Lieu of Other Discipline of Ms. Sampson's certified residential license.

**Martin Biles**

After an Appraisal Advisory Review meeting Mr. Biles entered into a Stipulation for Settlement in which he agreed to complete 28 hours of education within 12 months. The Committee found that Mr. Biles made numerous errors in the report causing the appraisal to be misleading.

**Jerolyn Elder-Blackburn**

After an Appraisal Advisory Review meeting Ms. Elder-Blackburn entered into a Stipulation for Settlement in which she agreed to complete 29 hours of education within 12 months. The Committee found that Ms. Elder-Blackburn failed to keep a complete workfile and made numerous errors in the report causing the report to be misleading.

**Mark Ryan**

After an Appraisal Advisory Review meeting, Mr. Ryan entered into a Stipulation for Settlement in which he agreed to complete 14 hours of education. The Committee found that Mr. Ryan failed to properly supervise a registered intern under his supervision.

**Nannette Smith**

The Advisory Review Committee determined Ms. Smith completed two appraisals of a single residence in Las Vegas with different effective dates but the same signature date. Further, the Committee found Ms. Smith did not properly develop the cost approach and did not keep proper workfiles. Ms. Smith entered into a Stipulation for Settlement in which she agreed to complete 29 hours of education.