

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,)
8 Petitioner,)
9 vs.)
10 DAVID LYSNE)
11 (License No. A.0205479-CG),)
12 Respondent.)

Case No.: AP15.048.N

ORDER APPROVING
STIPULATION FOR SETTLEMENT OF
DISCIPLINARY ACTION

FILED

JUL 28 2017

NEVADA COMMISSION OF APPRAISERS

13 The parties' Stipulation for Settlement of Disciplinary Action ("Stipulation"),
14 having come before the Nevada Commission of Appraisers of Real Estate ("Commission") on
15 June 6, 2017, and the Commission being fully apprised in the premises, and good cause
16 appearing to the Commission,

17 IT IS HEREBY ORDERED that the Stipulation for Settlement of Disciplinary
18 Action ("Stipulation") attached hereto as Exhibit "1" and incorporated herein be, and is,
19 hereby approved.

20 If the Respondent fails to timely fulfill, or violates the terms of the Stipulation,
21 then the Real Estate Division, Department of Business and Industry, State of Nevada
22 ("Division"), may automatically rescind the Stipulation and the Order Approving
23 Stipulation for Settlement of Disciplinary Action, and thereafter, may proceed in filing a
24 complaint before the Commission.

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Nevada Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

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This Order shall become effective on _____.


Dated this ____ day of _____, 2017.

COMMISSION OF APPRAISERS OF REAL ESTATE

By: _____
COMMISSIONER

Approved as to form:

ADAM PAUL LAXALT
Attorney General

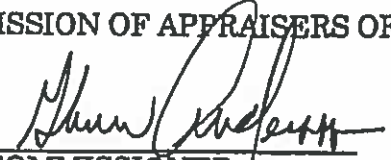
By: 
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of Business and Industry*

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This Order shall become effective on JULY 28, 2017.
Dated this 28 day of JULY, 2017.

COMMISSION OF APPRAISERS OF REAL ESTATE

By: 
COMMISSIONER

Approved as to form:

ADAM PAUL LAXALT
Attorney General

By: _____
PETER K. KEEGAN
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EXHIBIT 1

EXHIBIT 1

BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE
STATE OF NEVADA

SHARATH CHANDRA, Administrator,)
REAL ESTATE DIVISION,)
DEPARTMENT OF BUSINESS AND)
INDUSTRY, STATE OF NEVADA,)

Case No.: AP15.048.N

Petitioner,)

STIPULATION FOR SETTLEMENT OF

vs.)

DISCIPLINARY ACTION

DAVID LYSNE)
(License No. A.0205479-CG),)

FILED

RESPONDENT.)

JUL 28 2017

NEVADA COMMISSION OF APPRAISERS

This Stipulation ("Stipulation") is entered into by and between the Petitioner, REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA ("Division"), by and through its Administrator, SHARATH CHANDRA, and the Respondent, DAVID LYSNE ("RESPONDENT"). The RESPONDENT was, and at all times relevant to this Stipulation, licensed as a certified general appraiser by the Division under License No. A.0205479-CG.

ALLEGED FACTS

1. RESPONDENT completed an appraisal of 3.37 acres of real property, comprised of two parcels; a one-acre parcel, APN 6-630-10, and a 2.37 acre parcel, APN 6-300-05, located on SR362 in Hawthorne, Nevada ("Property").

2. The appraisal had an effective date of February 21, 2014, and a signature date of February 27, 2014. The RESPONDENT concluded a value of \$370,000.00.

3. RESPONDENT failed to clearly estimate the exposure time for the Property and did not state a specific exposure time, but instead gave a range of 5 to 10 years.

4. RESPONDENT failed to use the most recent area data available when he

1 conducted his Area Analysis and apparently copied an Area Analysis from a 2012 report,
2 thereby ignoring date from for the years 2011, 2012, and 2013.

3 5. RESPONDENT misstated the zoning of the Property as "light industrial"
4 when, in fact, the Property had two separate zoning designations; M-1, industrial, and M-
5 3, open space. RESPONDENT failed to disclosure the M-3, open space, zoning.

6 6. RESPONDENT made an Extraordinary Assumption, which assumed that
7 the two parcels would be rezoned, thus allowing for the proposed truck stop. However,
8 this is Extraordinary Assumption, created a Hypothetical Condition having a definite
9 impact on the value of the Property, and was not discussed on page 3 of the report where
10 application of Extraordinary Assumption Rule referenced.

11 7. Despite there being no need for a reconciliation, RESPONDENT only used
12 the sale comparison approach to value the Property and failed to explain why this was the
13 only approach used in his analysis.

14 8. RESPONDENT failed to discuss and make adjustments to the comparable
15 sales for zoning, particularly in light of the fact that many of the comparable sales were
16 zoned commercial and within existing shopping centers.

17 9. RESPONDENT misstated that the Property has municipal water and sewer
18 lines, when in fact the site did not have water or sewer, and the closest water line was
19 375-400 feet from the site and would have required the buyer to pay for an extension of
20 the line.

21 10. Subsequent to completing his appraisal of the Property, RESPONDENT filed
22 a complaint, regarding a separate appraisal of the Property, which stated that it would
23 cost \$30,000.00 to have the extension of the lines completed.

24 11. RESPONDENT did not discuss or make adjustments to the comparable sales
25 used in the report, which did have gas, electricity, water meters, and cable.

26 12. RESPONDENT's report contained a mathematical error on Comparable #1,
27 wherein he miscalculated the adjusted price as \$110,112.00, when in fact the correct
28 adjusted price is calculated is \$120,112.00. This miscalculation resulted in an incorrect

1 price/Square Foot and Front Foot valuation.

2 13. RESPONDENT failed to make adjustments to the Front Foot valuation for
3 Comparable Sales 1, 2, 3, 4, 5, 6, 7, and 8, which resulted in incorrect adjusted values per
4 Square Foot and Front Foot.

5 14. RESPONDENT made lot size adjustments at \$1.50 to \$2.00 to the
6 Comparable Sales without discussion of the adjustments.

7 15. RESPONDENT made an "improvements" adjustment for Comparable Sale
8 #1 at \$128,888.00, and an adjustment of \$77,908.00 to Comparable Sale #4, by using
9 depreciated cost new of the improvements and the remaining value was considered land
10 value; however, no zoning or utility adjustments were made.

11 16. RESPONDENT failed to discuss access to the Property in the report and
12 failed to indicate whether the Property had legal access onto the adjacent highway.

13 17. RESPONDENT failed to consider the pending sale of an adjacent parcel of
14 listed for \$245,000.00, which sold for \$150,000.00, and bordered the Property on three
15 sides. However, RESPONDENT did consider two other listings in his appraisal,
16 Comparable Listing #12 and #13.

17 18. RESPONDENT failed to include a statement in his Certification as to
18 whether he had performed any services as an appraiser on the subject property within the
19 preceding three years, as required by the Uniform Standards of Professional Appraisal
20 Practice ("USPAP"), since 2012.

21 **ALLEGED VIOLATIONS**

22 **First Violation**

23 The RESPONDENT failed to prepare the appraisal report for the Property in
24 Compliance with the Standards of the Appraisal Foundation. These Standards are
25 published in the Uniform Standards of Professional Appraisal Practice ("USPAP")
26 adopted by the Appraisal Standards Board of the Appraisal Foundation as authorized by
27 Congress and adopted in Nevada by Nevada Administrative Code ("NAC") 645C.400.¹ By
28

¹ The 2014-2015 edition of USPAP, effective January 1, 2014 through December 31, 2015, is applicable to and utilized for this Complaint.

1 developing a real property appraisal and failing to be aware of, understand, and correctly
2 employ the recognized methods and techniques that are necessary to produce a credible
3 appraisal, the RESPONDENT violated USPAP Rule 1-1(a), as codified in NAC
4 645C.405(1). This is unprofessional conduct pursuant to NRS 645C.470(2), and grounds
5 for disciplinary action pursuant to Nevada Revised Statutes ("NRS") 645C.460(1)(a)
6 and/or (b).

7 **Second Violation**

8 By developing a real property appraisal and making numerous and substantial
9 errors through both omission and commission, which significantly affected the appraisal,
10 RESPONDENT violated USPAP Standards Rule 1-1(b), as codified in NAC 645C.405(1).
11 This is unprofessional conduct pursuant to NRS 645C.470(2), and grounds for disciplinary
12 action pursuant to Nevada Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

13 **Third Violation**

14 By developing a real property appraisal in a careless or negligent manner, such as
15 by making a series of errors that, although individually might not have significantly
16 affected the results of the appraisal, in the aggregate, did affect the credibility of the
17 appraisal, the RESPONDENT violated USPAP Standards Rule 1-1(c), as codified in NAC
18 645C.405(1). This is unprofessional conduct pursuant to NRS 645C.470(2), and grounds
19 for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

20 **Fourth Violation**

21 By developing a real property appraisal and failing to identify the subject
22 property's characteristics relevant to the type and definition of value and intended use of
23 the appraisal including: its location and physical, legal, and economic attributes; which
24 includes access, utility availability, and topography, RESPONDENT violated USPAP
25 Standards Rule 1-2(e)(i), as codified by NAC 645C.405(1). This is unprofessional conduct
26 pursuant to NRS 645C.470(2), and grounds for disciplinary action pursuant to NRS
27 645C.460(1)(a) and/or (b).

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1 Fifth Violation

2 By developing a real property appraisal and failing to adequately identify the
3 extraordinary assumptions necessary in the assignment and/or any hypothetical
4 conditions necessary in the assignment, RESPONDENT violated USPAP Standards Rule
5 1-2(f) and/or (g), as codified in NAC 645C.405(1). This is unprofessional conduct pursuant
6 to NRS 645C.470(2), and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
7 and/or (b).

8 Sixth Violation

9 By developing a real property appraisal using a sales comparison approach, and
10 failing to collect, verify, and analyze all comparable sales available, and necessary to
11 reach a credible value conclusion at the time of the report, RESPONDENT violated
12 USPAP Standards Rule 1-4(a), as codified by NAC645C.405(1). This is unprofessional
13 conduct pursuant to NRS 645C.470(2), and grounds for disciplinary action pursuant to
14 NRS 645C.460(1)(a) and/or (b).

15 Seventh Violation

16 By developing a real property appraisal and failing to reconcile the quality and
17 quantity of data available and analyzed within the approaches used, RESPONDENT
18 violated USPAP Standards Rule 1-6(a), as codified in NAC 645C.405(1). This is
19 unprofessional conduct pursuant to NRS 645C.470(2), and grounds for disciplinary action
20 pursuant to NRS 645C.460(1)(a) and/or (b).

21 Eighth Violation

22 By failing to set forth within the written appraisal report, in a clear and accurate
23 manner that was not misleading, the RESPONDENT violated USPAP Standards Rule 2-
24 1(a), as codified in NAC 645C.405(1). This is unprofessional conduct pursuant to NRS
25 645C.470(2), and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
26 (b).

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1 Ninth Violation

2 By failing to include within the written appraisal report sufficient information to
3 enable the intended users of the appraisal to understand the report properly, the
4 RESPONDENT violated USPAP Standards Rule 2-1(b), as codified in NAC 645C.405(1).
5 This is unprofessional conduct pursuant to NRS 645C.470(2), and grounds for disciplinary
6 action pursuant to NRS 645C.460(1)(a) and/or (b).

7 Tenth Violation

8 By failing to clearly and accurately disclosure within the written appraisal report
9 all assumptions, extraordinary assumptions, hypothetical conditions, and limiting
10 conditions used in the assignment, the RESPONDENT violated USPAP Standards Rule
11 2-1(c), as codified in NAC 645C.405(1). This is unprofessional conduct pursuant to NRS
12 645C.470(2), and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
13 (b).

14 Eleventh Violation

15 By preparing an appraisal report which failed to clearly and conspicuously state all
16 extraordinary assumptions and hypothetical conditions, and state that their use might
17 have affected the assignment results, RESPONDENT violated USPAP Standards Rule 2-
18 2(a)(xi), as codified in NAC 645C.405(1). This is unprofessional conduct pursuant to NRS
19 645C.470(2), and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
20 (b).

21 Twelfth Violation

22 By failing to perform and disclose to the client in the Certification any services
23 regarding the subject property performed by the appraiser within the three-year period
24 immediately preceding acceptance of the assignment, as an appraiser or in any other
25 capacity, RESPONDENT violated the Conduct Section of the Ethics Rule of USPAP, as
26 codified in NAC 645C.405(1). This is unprofessional conduct pursuant to NRS
27 645C.470(2), and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or
28 (b).

1 **Thirteenth Violation**

2 By failing to include a provision in the Certification included in his appraisal report
3 that certified whether RESPONDENT had performed services, as an appraiser or in
4 another capacity, regarding the property that is the subject of this report within the
5 three-year period immediately preceding acceptance of this assignment, RESPONDENT
6 violated USPAP Standards Rule 2-3, as codified in NAC 645C.405(1). This is
7 unprofessional conduct pursuant to NRS 645C.470(2), and grounds for disciplinary action
8 pursuant to NRS 645C.460(1)(a) and/or (b).

9 **Fourteenth Violation**

10 By preparing a report with multiple errors and/or omissions and/or incorrect and/or
11 misleading and/or conflicting information, the RESPONDENT failed to ascertain or
12 include in his appraisal report all pertinent facts that may be reasonably ascertained
13 concerning the subject property, in violation of NAC 645C.405(3), which is unprofessional
14 conduct pursuant to NRS 645C.470(2), and grounds for disciplinary action pursuant to
15 NRS 645C.460(1)(a) and/or (b).

16 **Fifteenth Violation**

17 By preparing a report with multiple errors and/or omissions and/or incorrect and/or
18 misleading and/or conflicting information, the RESPONDENT failed to acquire
19 knowledge of all material facts that are reasonably ascertainable and/or are of customary
20 or express concern, and/or has failed to convey that knowledge to the client in the
21 appraisal report, in violation of NAC 645C.405(8), which is unprofessional conduct
22 pursuant to NRS 645C.470(2), and grounds for disciplinary action pursuant to NRS
23 645C.460(1)(a) and/or (b).

24 **JURISDICTION**

25 The RESPONDENT is a certified general real estate appraiser licensed by the
26 Division and therefore is subject to the jurisdiction of the Division and the provisions of
27 NRS and NAC Chapter 645C. By availing himself of the benefits and protections of the
28 laws of the State of Nevada, the RESPONDENT has submitted to the jurisdiction of the

1 Division.

2 **PROPOSED SETTLEMENT**

3 The Division is prepared to put on a case based on the Complaint filed with the
4 Commission of Appraisers of Real Estate ("Commission") alleging the above offenses, and
5 the Division is authorized under NRS Chapter 645C.460(2) to revoke or suspend the
6 certificate, place conditions upon the certificate, and/or impose a fine up to Ten Thousand
7 Dollars (\$10,000.00) per violation. The RESPONDENT is prepared to vigorously defend
8 any such Complaint; however, the parties desire to compromise and settle the instant
9 controversy upon the following terms and conditions:

10 1. The RESPONDENT agrees to voluntarily revocation of his license, effective
11 upon the acceptance by the Commission of this Stipulation.

12 a. Pursuant to NRS 645C.460(3), the RESPONDENT may reapply for
13 licensure one (1) year after the effective date of the Commission Order
14 accepting this Stipulation.

15 2. The Division agrees not to pursue any other or greater remedies or fines in
16 connection with the conduct referenced in the Alleged Violations section above;

17 3. The RESPONDENT and the Division agree that by entering into this
18 Stipulation, the Division does not concede any defense or mitigation the RESPONDENT
19 may assert, and that once this Stipulation is approved and fully performed, the Division will
20 close its file in this matter. The RESPONDENT understands that the public records law
21 may require the Division to make available for inspection this Stipulation and related
22 documents. The RESPONDENT also understands that the Division may share the contents
23 of this Stipulation and related documents with any governmental or professional
24 organization or member of the public;

25 4. The RESPONDENT and the Division agree that the Division, at its discretion,
26 may publish in its newsletter a summary of the alleged offenses of the RESPONDENT and
27 the terms of this Stipulation. It is further understood by the parties that this publication is
28 for educational purposes only and to advise other licensees of the alleged violation(s) and

1 that disciplinary action has been taken by the Division;

2 5. The RESPONDENT agrees and understands that by entering into this
3 Stipulation, the RESPONDENT is waiving his right (1) to a hearing at which the
4 RESPONDENT may present evidence in his defense and to be represented by counsel; and,
5 (2) to judicial review of any adverse decision by the Commission, and to present his defense
6 to a Commission which has had no prior familiarity with the instant matter. The
7 Commission members who review this matter for approval of this Stipulation may be the
8 same members who ultimately hear the Division's Complaint if this Stipulation is either not
9 approved by the Commission or is not timely performed by the RESPONDENT.

10 6. Neither this Stipulation nor any statements made concerning this Stipulation
11 may be discussed or introduced into evidence at the hearing of the Complaint if the Division
12 must ultimately put on a case based on the Complaint filed in this matter; and

13 7. Each party shall bear its own attorney's fees and costs.

14 APPROVAL OF STIPULATION

15 Once executed, this Stipulation will be filed with the Commission and will
16 be put on the agenda for approval at its June 6, 2017, meeting, which by Nevada
17 law is a public meeting. The meeting scheduled for June 6, 2017, will commence
18 each day at 9:00 a.m. The Commission Meeting will be located at the State of
19 Nevada, Department of Business and Industry, Division of Insurance, 1818 East
20 College Parkway, 1st floor Hearing Room, Carson City, Nevada 89706, with
21 videoconferencing to the Nevada State Business Center, 3300 W. Sahara
22 Avenue, Tahoe Room, Suite 430, Las Vegas, Nevada 89102.

23 At that time, the Division will recommend to the Commission approval of the
24 Stipulation. The RESPONDENT is required by this Stipulation to attend said hearing. The
25 RESPONDENT acknowledges and agrees that the Commission may approve this
26 Stipulation, reject it, or suggest different terms that must be communicated to the
27 RESPONDENT and accepted or rejected by the RESPONDENT before any such
28 amendment shall become effective.

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IT IS SO STIPULATED.

Dated: _____, 2017.

NEVADA REAL ESTATE DIVISION
Department of Business and Industry
State of Nevada


By: _____
SHARATHCHANDRA, Administrator
2501 East Sahara Avenue
Las Vegas, Nevada 89104-4137
Telephone: (702) 486-4033

Dated: 6/5, 2017.

David Lysne
DAVID LYSNE, RESPONDENT

Approved as to form:


ADAM PAUL LAXALT
Attorney General

By: 
PETER K. KEEGAN
Deputy Attorney General
100 North Carson Street
Carson City, Nevada 89701
Telephone: (775) 684-1153
*Attorneys for State of Nevada,
Department of Business and Industry,
Real Estate Division*

1 IT IS SO STIPULATED.

2 Dated: 06/06, 2017.

NEVADA REAL ESTATE DIVISION
Department of Business and Industry
State of Nevada

3
4
5 By: 
6 SHARATH CHANDRA, Administrator
7 3300 W. Sahara Avenue, Ste 350
8 Las Vegas, Nevada 89102
9 Telephone: (702) 486-4033

10 Dated: _____, 2017.

11 _____
12 DAVID LYSNE, RESPONDENT

13 Approved as to form:

14 ADAM PAUL LAXALT
15 Attorney General

16 By: _____
17 PETER K. KEEGAN
18 Deputy Attorney General
19 100 North Carson Street
20 Carson City, Nevada 89701
21 Telephone: (775) 684-1153
22 *Attorneys for State of Nevada,*
23 *Department of Business and Industry,*
24 *Real Estate Division*
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