



REAL ESTATE DIVISION,
DEPARTMENT OF BUSINESS AND INDUSTRY,
STATE OF NEVADA

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

Petitioner,

vs.

KRISTINA A. BIENEK
A.0005276-CR

Respondent.

**STIPULATION FOR SETTLEMENT
OF DISCIPLINARY ACTION
PURSUANT TO NAC 645C.610(3)**

Case No. 2015-1778, AP15.051.S

**STIPULATION FOR SETTLEMENT OF DISCIPLINARY
ACTION PURSUANT TO NAC 645C.610(3)**

1. **PARTIES.** This Stipulation is entered into by and between the Petitioner, the REAL ESTATE DIVISION, DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA (the "Division"), by and through its Administrator, SHARATH CHANDRA (the "Administrator"), and the Respondent, Kristina A. Bienek (whether one or more hereinafter the "Respondent"), who at relevant times was licensed by the State of Nevada, license number(s) A.0005276-CR. This Stipulation is entered into upon mutual agreement with the decision of the Appraisal Advisory Review Committee (the "AARC"), which was reached at its informal conference held on May 19, 2017, in LAS VEGAS, NEVADA. Members of the AARC present were Robert T. Steffan, Stephen R. Johnson, and Timothy Morse, CHAIR.

2. **AUTHORITY OF THE APPRAISAL ADVISORY REVIEW COMMITTEE.** The Appraisal Advisory Review Committee has authority to enter into this Stipulation with the Respondent pursuant to NAC 645C.610(3).

3. **FINDINGS.** The AARC has found that the Respondent, while licensed, certified or registered as a Nevada Appraiser, committed violations of chapter 645C of Nevada Revised

1 Statutes and Nevada Administrative Code and/or USPAP. A description of the conduct in which
2 these violations were committed is set forth in specificity in the Summary of Facts which is
3 attached hereto as EXHIBIT "A". The Administrator has the authority, pursuant to NAC
4 645C.600(2), to establish an advisory committee in an attempt to review this matter informally
5 and recommend a resolution.

6 4. **NO ADMISSION OF GUILT.** The Respondent does not admit or deny the findings of
7 the AARC, choosing to remain silent, but does agree that the findings establish a prima facie case
8 for the discipline set forth below and stipulates, subject to the limitations and conditions set forth
9 below, that the Division shall not be required to provide further evidence of such allegations.

10 5. **SETTLEMENT FOR DISCIPLINARY ACTION.** As set forth above, the AARC is
11 authorized under NAC 645C.610 to impose an administrative fine, upon final approval by the
12 Commission. The Division also has the option to file a complaint with the Nevada Commission of
13 Appraisers of Real Estate (the "Commission"). The Commission has the authority pursuant to NRS
14 645C.460(2)(d) to impose a fine of up to \$10,000 for each violation alleged or to suspend or revoke
15 the Respondent's certificate, license or registration card. The parties, however, desire to
16 compromise and settle the instant controversy, without a hearing, upon the following terms and
17 conditions:

18 a. **Committee Recommendations:** The Committee recommends that the
19 RESPONDENT, complete not less than 15 hours of instruction in Cost/Sales Approach Analysis with
20 the RESPONDENT attending these hours in person, and complete the online course Residential
21 Report Writing vs. Form Filling . No credit will be given for continued education credit for the
22 above mentioned courses. Course must be completed within 6 months from the date the Appraisal
23 Commission signs the stipulation.

24 _____
25 b. **Public Record.** RESPONDENT and the DIVISION agree that by entering into this
26 Stipulation, the DIVISION does not concede any defense or mitigation RESPONDENT may assert,
27 and the parties agree that the DIVISION will not publicize the instant disciplinary matter, except as
28 set forth below, and that once this Stipulation is approved and fully performed, the DIVISION will

1 close its file in this matter. RESPONDENT understands that the public records law may require the
2 DIVISION to make available for inspection this Stipulation and related documents. RESPONDENT
3 also understands that the DIVISION may share the content of this Stipulation and related
4 documents with any governmental or professional organization or member of the public;

5 **c. Newsletter.** RESPONDENT and the DIVISION agree that the DIVISION, at its
6 discretion, may publish in the newsletter an anonymous summary of the alleged offenses of
7 RESPONDENT and the terms of this Stipulation, with the understanding of all parties that such
8 publication will not specifically name RESPONDENT or make reference to any other party;
9 RESPONDENT will be referred to only as a licensee in the State of Nevada. It is further
10 understood by the parties that this publication is for educational purposes only and to advise
11 other licensees of the alleged violation(s) and that disciplinary action has been taken by the
12 DIVISION;

13 **d. Failure to perform; hearing on complaint.**
14 RESPONDENT agrees that if the required education is not completed in the time allowed above,
15 RESPONDENT'S license will be automatically suspended until such time as the fine is paid and
16 continuing education requirement satisfied. The DIVISION may, at its option, rescind this
17 Stipulation and proceed with filing a Complaint before the Commission. Further, recovery actions
18 for the administrative fines may be instituted by the DIVISION;

19 **e. No other remedies.** Assuming Respondent complies with the terms of this
20 stipulation, the Division agrees not to pursue any other or greater remedies or fines in connection
21 with the conduct referenced in above unless stipulation is rescinded.

22 **f. Waiver by Respondent.** RESPONDENT agrees and understands that by entering
23 into this Stipulation, RESPONDENT is waiving his/her right to a hearing at which RESPONDENT
24 may present evidence in his/her defense and to be represented by counsel, to judicial review of
25 any adverse decision by the Commission, and to present his/her defense to a Commission which
26 has had no prior familiarity with the instant matter. The Commission members who review this
27 matter for approval of this Stipulation may be the same members who ultimately hear the
28 DIVISION'S complaint if this Stipulation is either not approved by the Commission or is not timely
performed by RESPONDENT; and

g. Attorney fees and other costs. Each party shall bear its own attorney's fees and

other costs not specifically set forth in this Stipulation.

1 **6. RELEASE.** In consideration of execution of this Stipulation, the Respondent for
2 himself/herself or his/her heirs, executors, administrators, successors, and assigns, hereby
3 release, remiss, and forever discharge the State of Nevada, the Department of Business and
4 Industry of the State of Nevada, the Division, and each of their members, agents, and employees
5 in their individual and representative capacities, from any and all manner of actions, causes of
6 action, suits, debts, judgments, executions, claims, and demands whatsoever, known and
7 unknown, in law or equity, that the Respondents ever had, now has, may have, or claims to have
8 against any or all of the persons or entities named in this section, arising out of or by reason of
9 the Division's investigation, this disciplinary action, or any other matter relating thereto.

10 **7. INDEMNIFICATION.** Respondent hereby indemnifies and holds harmless the State
11 of Nevada, the Department of Business and Industry of the State of Nevada, the Division, and
12 each of their members, agents, and employees in their individual and representative capacities
13 against any and all claims, suits, and actions brought against said persons and/or entities by
14 reason of the investigation of the allegations in the Complaint, this disciplinary action and all
15 other matters relating thereto, and against any and all expenses, damages, and costs, including
16 court costs and attorney fees, which may be sustained by the persons and/or entities named in
17 this section as a result of said claims, suits, and actions.

18 **8. COMMISSION APPROVAL OF STIPULATION NECESSARY.**
19 Once executed, this Stipulation will be filed with the Commission and will be put on the agenda
20 for approval at its meeting, which by Nevada law is a public meeting. At that time, the DIVISION
21 will recommend to the Commission approval of the Stipulation. RESPONDENT acknowledges and
22 agrees that the Commission may approve this Stipulation, reject it, or suggest different terms
23 which must be communicated to RESPONDENT and accepted or rejected by RESPONDENT before
24 any such amendment shall become effective.

25 **9. SETTLEMENT DISCUSSIONS NOT EVIDENCE.** Any statements made during the
26 discussions leading up to this Stipulation may not be discussed or introduced into evidence at any
27 hearing. However, evidence of the Respondent's failure to abide by the terms of any Stipulation
28 entered into with the Division, may be introduced at a hearing and used against the Respondent.

10. STIPULATION IS NOT A BAR TO FUTURE PROCEEDINGS. This Stipulation shall not

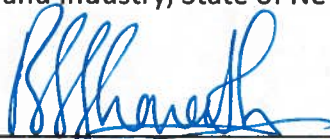
1 constitute an estoppel, merger or bar to any administrative or civil proceeding by the Division
2 with respect to any future matters or other matters that were not consideration for this
3 Stipulation.

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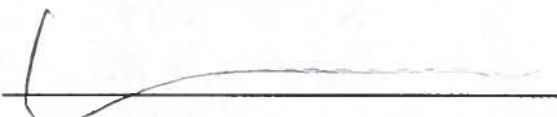
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10 SO STIPULATED.

11 Dated: 07/10/17

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

12
13
14 By: 
15 SHARATH CHANDRA
Administrator

16 Dated: 6/30/2017

17 
18 Respondent

19 **ORDER**

20 The foregoing Stipulation was approved by a vote of the Nevada Commission of
21 Appraisers of Real Estate on _____.

22 DATED this _____ day of _____, 2017.

23
24 NEVADA COMMISSION OF APPRAISERS OF
REAL ESTATE

25
26 _____
Commissioner

**Exhibit A
Kristina Ann Bienek**

Violation found:

Standard Rule 1, in developing a real property appraisal, an appraiser must:

1-2 (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

- (i) its location and physical, legal, and economic attributes;
- (ii) the real property interest to be valued;
- (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
- (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; an
- (v) whether the subject property is a fractional interest, physical segment, or partial holding.

Standard Rule 1-4 In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

1-4(b) (iii) When a cost approach is necessary for credible assignment results, an appraiser must:
(iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

Standard Rule 2 In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

2-1(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

2-1 (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly.

Standards Rule 2-2 - Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

2-2(b) (iii) (a) describe or (b) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; (c) state information sufficient to identify the real estate involved in the appraisal.

Facts and Rationale for Finding: The Appraisal Advisory Review Committee has found that the Respondent, while licensed, certified or registered as a Nevada Appraiser, committed violations of chapter 645C of Nevada Revised Statutes and Nevada Administrative Code and/or USPAP.

CERTIFICATE OF SERVICE

I, hereby certify that I am an employee of the Real Estate Division, Department of Business and Industry, State of Nevada and that on the 30th day of May, 2017 I served a fully executed copy of the foregoing **STIPULATION FOR SETTLEMENT OF DISCIPLINARY ACTION PURSUANT TO NAC 645C.610(3)** by depositing a copy of the same in the State of Nevada mailroom, properly addressed, certified return receipt requested, addressed as follows:

KRISTINA A. BIENEK

CERTIFIED MAIL # 7013 1090 0001 1294 9597


Jaye Lindsay, Compliance/Audit Investigator II

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State of Nevada
Department of Business & Industry
Real Estate Division
Appraisal Advisory Review Committee
1818 E College Pkwy
Carson City, Nevada 89706

COMMITTEE REPORT

Date of AARC meeting:	May 19, 2017
Case No.	AP15.051.S (2015-1778)
Respondent:	Kristina Bienek
License No.	A.0005276-CR
Appraisal Officer:	Stacey Spoerl
Committee members:	Timothy Morse, Chair, Stephen R. Johnson, Robert Steffen

Allegations: The respondent did not use comparable sales from the subject area.

Findings: The Committee determined that in the case of the appraisal of a single family residence located at 387 Cats Eye Drive,, Boulder City, NV dated July 12, 2015, RESPONDENT violated the Uniform Standards of Professional Appraisal Practice in that she

Violations:

Standard Rule 1, in developing a real property appraisal, an appraiser must:

1-2 (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

- (i) its location and physical, legal, and economic attributes;
- (ii) the real property interest to be valued;
- (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
- (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; an
- (v) whether the subject property is a fractional interest, physical segment, or partial holding.

Standard Rule 1-4 In developing a real property appraisal, an appraiser must collect, verify and analyze all information necessary for credible assignment results.

1-4 (b) (III) When a cost approach is necessary for credible assignment results, an appraiser must:

- (iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

Standard Rule 2-1

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading. Each written or oral real property report must:

2-1(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

2-1 (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly

Standards Rule 2-2 - Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

2-2(b) (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; (c) state information sufficient to identify the real estate involved in the appraisal.

Committee recommendation:

The Committee recommends that the RESPONDENT, complete not less than 15 hours of instruction in Cost/Sales Approach Analysis with the RESPONDENT attending these hours in person, and complete the online course Residential Report Writing vs. Form Filling . No credit will be given for continuing education credit for the above mentioned courses. Course must be completed within 6 months from the date the Appraisal Commission signs the stipulation.

Respondent agreed.

This report is hereby submitted on this the 24 day of May, 2017.

Appraisal Advisory Review Committee



Timothy Morse, Chair