

1                   **BEFORE THE COMMISSION OF APPRAISERS OF REAL ESTATE**  
2   **STATE OF NEVADA**

3 SHARATH CHANDRA , Administrator,  
4 REAL ESTATE DIVISION, DEPARTMENT  
5 OF BUSINESS AND INDUSTRY,  
6 STATE OF NEVADA,

7   Petitioner,

8                   vs.

9 MICHAEL L. BRUNSON  
10 (License No. A.0207222-CG),

11   Respondent.

Case No. 2016-4146 & AP 17.020.S

**FIRST AMENDED FINDINGS OF  
FACT AND CONCLUSIONS OF LAW**

**FILED**

**FEB 27 2019**

NEVADA COMMISSION OF APPRAISERS



12           This matter came on for hearing before the Nevada Commission of Appraisers of  
13 Real Estate, State of Nevada (“Commission”) on Wednesday, October 9-11, 2018 and  
14 again on January 29-30, 2019, at the Nevada State Business Center, 3300 W. Sahara  
15 Avenue, Las Vegas, Nevada 89102. Respondent Michael L. Brunson (“Respondent”)  
16 appeared without counsel. Peter K. Keegan, Deputy Attorney General, appeared and  
17 prosecuted the Complaint on behalf of petitioner Sharath Chandra, Administrator of the  
18 Real Estate Division, Department of Business & Industry, State of Nevada (“Division”).  
19 This matter was consolidated with Case No. 2016-4145 due to the overlapping facts and  
20 both matters were heard jointly by the Commission.

21 **I. JURISDICTION**

22           The Respondent is a Certified General Appraiser licensed by the Division, and  
23 therefore, is subject to the Jurisdiction of the Division and Commission pursuant to the  
24 provisions of NRS and NAC Chapter 645C.

25 **II. FINDINGS OF FACT**

26           The matter having been submitted for decision based upon the allegations of the  
27 Complaint, the Commission now, based upon the evidence presented during the hearing,  
28 finds that there is substantial evidence in the record to establish each of the following:

1       **A. 594 Lairmont Place & 598 Lairmont Place**

2           1.       The Respondent is currently licensed by the Division as a Certified General  
3 Appraiser on October 14, 2015, License No. A.0207222-CG.

4           2.       Prior to obtaining as Certified General Appraiser license, the Respondent  
5 was licensed by the Division as a Certified Residential Appraiser, License No. A.0002794-  
6 CR, from December 9, 1997 through December 31, 2015, and an as Appraiser Intern,  
7 License No. A.0002105-INTR, from October 10, 1995 through October 31, 1999.

8           3.       On or about December 8, 2016, the Division received a complaint/statement  
9 of fact asserting that the Respondent had completed an appraisal in violation of several  
10 provisions of the Uniform Standards of Professional Appraisal Practice (“USPAP”).

11          4.       Respondent was engaged to conduct a Restricted Appraisal for litigation  
12 purposes of residential properties located at 594 & 598 Lairmont Place, Henderson,  
13 Nevada 89012, APN 178-27-226-003 & 178-27-218-001 (“Properties”), by analyzing the  
14 nature, quality, value, or use of the property, and offered an opinion as to the nature,  
15 quality, value or use of the property for or with the expectation of compensation.

16          5.       The effective date of valuation performed by the Respondent was identified  
17 as October 20, 2014.

18          6.       The date of transmittal for the appraisal report was October 21, 2014.

19          7.       At the time Respondent signed the appraisal in question, he was operating  
20 under his Residential Appraiser’s License No. A.0002784-CR.

21          8.       The type of appraisal identified by the Respondent was Restricted Appraisal  
22 Report.

23          9.       The intended use of the appraisal performed by the Respondent was  
24 “negotiation.”

25          10.       On or about December 8, 2016, the Division mailed to the Respondent an  
26 opening letter requesting, by December 22, 2016, copies of the Respondent’s work file for  
27 the Properties.

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1           11. On or about January 9, 2017, the Respondent submitted his response to the  
2 complaint and a copy of his work file for the Properties.

3           12. The scope of work identified in the appraisal included “analysis of overall  
4 Southern Nevada economy; analysis of the subject property based on available data  
5 sources and information provided by the Client; analysis of comparable sales and listing  
6 as of the effective date; analysis of financing opportunities; leading to an opinion of the  
7 market value as of a current date.”

8           13. The appraisal failed to clearly disclose the application of a hypothetical deed  
9 restriction on the 14,858 sq. ft. of additional land, which was only discussed in a single  
10 footnote.

11           14. The appraisal failed to identify or analyze the ownership history or recent  
12 sales of the Properties as of the effective date of the appraisal.

13           15. On or about August 9, 2018, the Division mailed to the Respondent a follow-  
14 up letter, pursuant to NRS Chapter 233B Letter, as required by NRS 233B.237(3)  
15 indicating that the investigation of this matter was being reopened and a formal  
16 complaint was being filed by the Division with the Nevada Appraisal Commission.

17           **B. 590 Lairmont Place**

18           1. Respondent assisted in the preparation of a Real Estate Damages Analysis  
19 (“Damages Analysis”) for the property located at 590 Lairmont Place, Henderson, Nevada  
20 89012, APN 178-27-218-003 (“590 Lairmont”)

21           2. The opinion contained in the Damages Analysis concerned the impact of a  
22 detrimental condition, further identified as a Class V: Detrimental Condition, on a  
23 specific house.

24           3. The effective date of the analysis was May 15, 2013.

25           4. The date of transmittal on the analysis was November 25, 2014.

26           5. The intended use of the analysis was litigation.

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1           6.       590 Lairmont was originally listed on March 13, 2013, for \$2,160,000, but  
2 closed with an "all cash" sale price of \$2,303,000 on May 15, 2013, after 13 days on the  
3 market.

4           7.       The Damages Analysis accepted the "As Is" (unimpaired value) expressed in  
5 the expert appraisal report completed by Valbridge Property Advisors with an effective  
6 date of May 15, 2013, and a cited value opinion of \$2,500,000.00 under an Extraordinary  
7 Assumption.

8           8.       The real property, commonly known as 594 & 598 Lairmont Place, to the  
9 east of 590 Lairmont were vacant at the time of sale.

10          9.       As of the effective date, the purchase of additional parcel had not closed and  
11 the owners of the real property adjacent to the east of 590 Lairmont had not completed  
12 their plans to develop.

13          10.      The Damages Analysis fails to recognize that borrowed views across  
14 adjacent properties are not guaranteed in perpetuity by laws or agreement in this case.

15          11.      The Damages Analysis failed to identify permissible landscaping as a  
16 possible obstruction of the borrowed views.

17          12.      The Damages Analysis failed to include paired sales or any sales data  
18 analysis to support a 30 to 40% value loss.

19          13.      The Damages Analysis applies bias to the survey results.

20          14.      The Damages Analysis survey results are not supported by transactional  
21 data.

22          15.      The Damages Analysis fails to account for existing topographic, physical,  
23 and developed features of the surrounding land that create fishbowl conditions that  
24 diminish the privacy of 590 Lairmont.

25          16.      The Case Studies included in the Damages Analysis, independent of  
26 transactional data, do not provide reliable support for the value conclusion.

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2 **III. CONCLUSIONS OF LAW**

3 The Commission, based upon the preponderance of the evidence, makes the  
4 following legal conclusions:

5 1. By failing to (1) identify the problem to be solved; (2) determine and perform  
6 the scope of work necessary to develop credible assignment results; and (3) fully disclose  
7 the scope of work in the report, the Respondent violated the USPAP Scope of Work Rule,  
8 as codified in NAC 645C.405(1). The Respondent's actions constitute unprofessional  
9 conduct, pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to  
10 NRS 645C.460(1)(a) and/or (b).

11 2. By engaging in the Real Estate Damage Analysis of 590 Lairmont Place and  
12 failing to perform the assignment with impartiality, objectivity, independence, and  
13 without accommodation of personal interests, Respondent demonstrated bias and  
14 appeared to advocate for the interest of his clients. Furthermore, Respondent failed to  
15 promote and protect the public trust inherent in appraisal practice. Respondent thereby  
16 violated the USPAP Ethics Rule, as codified in NAC 645C.405(1). The Respondent's  
17 actions constitute unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for  
18 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

19 3. By failing to conduct a thorough analysis of comparable sales or use other  
20 methods to evaluate transactional level data in support of the survey results, the  
21 Respondent failed to be aware of, understand, and correctly employ the recognized  
22 methods and techniques that are necessary to produce a credible market value appraisal,  
23 or retrospective Damages Analysis, the Respondent violated USPAP Rule 1-1(a), as  
24 codified in NAC 645C.405(1). The Respondent's actions constitute unprofessional conduct,  
25 pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS  
26 645C.460(1)(a) and/or (b).

27 4. By conducting and evaluating a survey of real estate professionals without  
28 adequate training, Respondent acted in a careless or negligent manner, causing the

1 Damages Analysis to contain a series of errors that, although individually might not have  
2 significantly affected the results of the appraisal, in the aggregate did affect the  
3 credibility of the appraisal, and therefore Respondent violated USPAP Standards Rule 1-  
4 1(c), as codified in NAC 645C.405(1). The Respondent's actions constitute professional  
5 incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant  
6 to NRS 645C.460(1)(a) and/or (b).

7 5. By failing to follow the Scope of Work set forth in Respondent's appraisal of  
8 the 590 Lairmont Place residential property, the Respondent failed to establish that the  
9 work done to complete the appraisal produced a credible result. As a result, the  
10 Respondent violated USPAP Standards Rule 1-2(h) and the USPAP Ethics Rule of  
11 Conduct as codified by NAC 645C.405(1). The Respondent's actions constitute  
12 professional incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary  
13 action pursuant to NRS 645C.460(1)(a) and/or (b).

14 6. By failing to provide a historical sales or ownership analysis and explanation  
15 of the agreements for sale, zoning changes, and other existing listings, that occurred  
16 within the three (3) prior years leading up to the effective date, the Respondent failed to  
17 analyze all agreements related to the property. As a result, the Respondent violated  
18 USPAP Standards Rule 1-5(a) and 1-5(b), as codified in NAC 645C.405(1). The  
19 Respondent's actions constitute professional incompetence pursuant to NRS 645C.470(3)  
20 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

21 7. By failing to clearly and adequately disclose and explain the application of a  
22 hypothetical condition to the Damages Analysis, the Respondent failed to communicate  
23 the analysis, opinion, and conclusion in a manner that was not misleading. As a result,  
24 the Respondent violated USPAP Standards Rule 2-1(a) and Rule 2-1(c), as codified in  
25 NAC 645C.405(1). The Respondent's actions constitute unprofessional conduct pursuant  
26 to NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)  
27 and/or (b).

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3 **ORDER**

4 IT IS HEREBY ORDERED that Respondent shall pay to the Division a total fine of  
5 \$7,078.29. The total fine reflects a fine of \$3,500.00 for committing each of the above  
6 seven violations of law, plus \$3,578.29 for hearing and investigative costs. Respondent  
7 shall pay the total fine to the Division within ninety (90) days of the effective date of this  
8 Order.

9 IT IS FURTHER ORDERED that Respondent's Certified General Appraiser license  
10 is hereby suspended for a period of one (1) year from the effective date of this order and  
11 Respondent must appear before the Commission to apply for his Certified General  
12 Appraiser license to be reactivated.

13 IT IS FURTHER ORDERED that Respondent's approval to teach continuing  
14 education courses is hereby revoked pursuant to NAC 645C.232.

15 IT IS FURTHER ORDERED that Respondent must complete thirty (30) hours of  
16 appraisal practice and thirty (30) hours of appraisal procedures live course continuing  
17 education credits within one (1) year of the effective date of the Commission's order. The  
18 total sixty (60) hours of continuing education course work shall not count towards the  
19 required continuing education requirements and must be completed before Respondent can  
20 reapply for reinstatement of this Certified General Appraiser's license.

21 If the payment or proof of completion of the continuing education is not actually  
22 received by the Division on or before its due date, it shall be construed as an event of  
23 default by Respondent. In the event of default, Respondent's licenses and permit shall be  
24 immediately suspended, and the unpaid balance of the administrative fine and costs,  
25 together with any attorney's fees and costs that may have been assessed, shall be due in  
26 full to the Division within ten calendar days of the date of default. The Division may  
27 institute debt collection proceedings for failure to timely pay the total fine.

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The Commission retains jurisdiction for correcting any errors that may have occurred in the drafting and issuance of this Decision.

This Order shall become effective on the 2 day of ~~March~~ <sup>April</sup>, 2019.

DATED this 27 day of February, 2019.

COMMISSION OF APPRAISERS OF REAL ESTATE  
STATE OF NEVADA

By: Chris C. Sanges  
President, Commission of Appraisers of Real Estate