

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 RICHARD ROMANO
11 (License No. A.0004351-CR),

12 Respondent.

Case No. 2017-2566 & AP18.007.S

**COMPLAINT AND NOTICE OF
HEARING**

FILED

APR 18 2019

NEVADA COMMISSION OF APPRAISERS



14 State of Nevada, Department of Business and Industry, Real Estate Division (“the
15 Division”), by and through counsel, Attorney General AARON D. FORD and Deputy
16 Attorney General PETER K. KEEGAN, hereby notifies RICHARD ROMANO
17 (“Respondent”) of an administrative complaint and hearing which is to be held pursuant
18 to Chapter 233B and Chapter 645C of the Nevada Revised Statutes (“NRS”) and Chapter
19 645C of the Nevada Administrative Code (“NAC”). The purpose of the hearing is to
20 consider the allegations stated below and to determine if the Respondent should be
21 subject to a disciplinary penalty as set forth in NRS 645C and or NAC 645C, if the stated
22 allegations are proven at the hearing by the evidence presented.

23 **JURISDICTION**

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

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1 **FACTUAL ALLEGATIONS**

2 1. The Respondent is currently licensed by the Division as a Certified
3 Residential Appraiser on September 17, 2002, License No. A.0004351-CR, with an
4 expiration of September 30, 2020.

5 2. On or about December 26, 2017, the Division received a complaint/statement
6 of fact asserting that the Respondent completed a purchase transaction appraisal in
7 violation of several provision of the Uniform Standards of Professional Appraisal Practice
8 ("USPAP"), because the Respondent used unverified comparative sales and had failed to
9 develop the 1004MC Market Conditions Addendum.

10 3. The complaint/statement of fact received by the Division contained a copy of
11 Respondent's Appraisal Report ("Original Appraisal Report").

12 4. The Respondent prepared a Uniform Residential Appraisal Report of the
13 single story, approximately 3040 sq. ft. residential property, built in 2016 located at 6312
14 Waking Moon Circle, Las Vegas, Nevada 89131, APN 125-23-510-001 ("Property"), by
15 analyzing the nature, quality, value, or use of the property, and offered an opinion as to
16 the nature, quality, value or use of the property for or with the expectation of
17 compensation.

18 5. The intended use of the appraisal performed by the Respondent was a
19 "mortgage finance transaction."

20 6. The Original Appraisal Report contains a value conclusion for the Property
21 of \$505,000.00, with the effective date identified as December 13, 2017; the appraisal
22 report was signed by the Respondent on December 18, 2017.

23 7. The Respondent received three (3) separate revision requests from his
24 contracting Appraisal Management Company ("AMC").

25 8. On or about December 17, 2017, the Respondent received the first revision
26 request from the AMC requesting a correction to the bathroom photos to reflect only three
27 bathrooms.

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1 9. On or about December 21, 2017, the Respondent received the second revision
2 request from the AMC requesting reconsideration of the following: (1) the limited size of
3 the 1004MC; (2) the market trend analysis; (3) verification of comparative sale contract
4 dates; (4) the non-inclusion of the recent sale of 7178 Fire Opal; and (5) the metropolitan
5 statistical area (MSA).

6 10. On or about December 27, 2017, the Respondent received a third revision
7 request from the AMC requesting reconsideration of the Respondent's defined market
8 area as well as inclusion of additional comparative sales.

9 11. Following the AMC's third revision request, the Respondent made
10 significant changes to the appraisal report without including supporting information
11 justifying or quantifying the changes. The changes include: (1) amending the
12 neighborhood section to reflect increasing property values for one-unit housing; (2) the
13 1004MC was changed to reflect an increasing market; (3) sales comparison approach
14 adjustments were added for contract date and view; (4) and additional comparable, sale 5
15 was added; and (5) the final opinion of value was changed.

16 12. The Respondent failed to confirm the contract date for comparable sales 1
17 and 2 in both the Original and Revised Appraisal Reports.

18 13. The Respondent's Revised Appraisal Report workfile does not contain any
19 analysis as to the reconciliation between market analysis and differing date/time
20 adjustments for comparable sales 1 and 2.

21 14. The Original Appraisal Report's sales comparison approach analysis did not
22 include any adjustments for view to comparable sales 2, 3, 4, 5, or 6.

23 15. The Revised Appraisal Report's sales comparison approach analysis did
24 include view adjustments to comparable sales 2, 3, 4, 5, 6, and 7.

25 16. The Revised Appraisal Report's additional comparable, sale 5 is adjusted,
26 but fails to include information regarding the quantification of the market-based
27 adjustments or value calculations.

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1 17. The Respondent's workfile does not include information as to the
2 development and quantification of the site improvements and landscaping valuations.

3 18. The Respondent failed to provide information specific to the change in
4 neighborhood market conditions from stable his Original Appraisal Report to increasing
5 in his Revised Appraisal Report.

6 19. Both the Original and Revised Appraisal Reports incorrectly identify the
7 Property as a Builder Sale with an effective age of "0," when the Property was actually a
8 one year old resale.

9 20. The Original Appraisal Report's addendum incorrectly identified comparable
10 sale 5 as located on a golf course and also incorrectly identified the Property as "a new
11 dwelling."

12 21. Both of the Respondent's appraisal reports failed to correctly analyze the
13 Property's accrued depreciation.

14 22. Both of the Respondent's appraisal reports failed to include an analysis of
15 the Property's prior sale on or about April 20, 2017.

16 23. Both of the Respondent's appraisal reports failed to adequately reconcile the
17 conclusion that the cost approach had "a minimal impact on the final conclusions for the
18 subject."

19 24. Both of the Respondent's appraisal reports failed to reconcile the
20 applicability or suitability of the cost approach and income approach or the exclusion of
21 the approaches in development of the final value conclusion.

22 25. Both of the Respondent's appraisal reports are misleading due to the lack of
23 quantifiable analysis in the workfile to support the adjustments and/or non-adjustments
24 as well as the conflicting information within the reports.

25 26. Both of the Respondent's appraisal reports contain conflicting information in
26 the addendum and 1004MC regarding the median marketing time.

27 27. Both of the Respondent's appraisal reports refer to "paired sales analysis,"
28 but neither report contains evidence of paired analysis within the workfile.

1 28. Both of the Respondent's appraisal reports fail to adequately describe and
2 support the rationale for the highest and best use, identified as the current use.

3 29. The Respondent improperly allowed the AMC to influence his appraisal
4 report.

5 30. On or about December 26, 2017, the Division sent the Respondent an
6 opening letter, via certified mail, requesting a copy of his entire appraisal workfile and all
7 supporting documentation.

8 31. On or about February 9, 2018, the Respondent submitted a response to the
9 Division's opening letter dated December 26, 2017, wherein he only provided a copy of his
10 Revised Appraisal Report and not a copy of his Original Appraisal Report submitted to
11 the client prior to the AMC's revision requests or the revision requests themselves.

12 32. The Revised Appraisal Report contains a value conclusion for the Property of
13 \$532,000.00, with the effective date identified as December 13, 2017; the appraisal report
14 was signed by the Respondent on December 27, 2017.

15 33. On or about March 1, 2019, the Division mailed to the Respondent a follow-
16 up letter, pursuant to NRS Chapter 233B Letter, as required by NRS 233B.237(3)
17 indicating that the Division's investigation had uncovered sufficient evidence to
18 recommend the filing of a formal complaint by the Division with the Nevada Appraisal
19 Commission.

20 **VIOLATIONS OF LAW**

21 **First Violation**

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

27 ¹ The 2016-2017 edition of USPAP, effective January 1, 2016 through December 31, 2017, is
28 applicable to and utilized for this Complaint.

1 Respondent violated the USPAP ETHICS RULE, as codified in NAC 645C.405(1),
2 by failing to perform the assignment with impartiality, objectivity, and independence and
3 without accommodation of personal interests. The Respondent's actions constitute
4 unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for disciplinary action
5 pursuant to NRS 645C.460(1)(a) and/or (b).

6 **Second Violation**

7 The Respondent violated the USPAP RECORD KEEPING RULE, as codified
8 in NAC 645C.405(1), by failing to keep and maintain true copies of all written reports,
9 documented on any type of media and all other data, information, and documentation
10 necessary to support the appraiser's opinions and conclusions, and to show compliance
11 with USPAP, or references to the location(s) of such other data, information or
12 documentation. The Respondent's actions constitute unprofessional conduct, pursuant to
13 NRS 645C.470(2) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
14 and/or (b).

15 The Respondent also violated NRS 645C.480(1)(b) by failing to produce any
16 document, book or record in his or her possession or under his or her control after being
17 requested to do so by the Division as part of its investigation of a complaint. The
18 Respondent's actions constitute unprofessional conduct, pursuant to NRS 645C.470(2)
19 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

20 **Third Violation**

21 The Respondent violated the USPAP SCOPE OF WORK RULE, as codified in NAC
22 645C.405(1), by failing to provide information specific to the reported value increase in his
23 Revised Appraisal Report. The SCOPE OF WORK RULE requires description of the type
24 and extent of data researched; and the extent of analyses applied to arrive at opinions or
25 conclusions. Credible assignment results require support by relevant evidence and logic.

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1 **Fourth Violation**

2 By developing a real property appraisal and making numerous and substantial
3 errors through both omission and commission, which significantly affected the appraisal,
4 the Respondent violated USPAP Standards Rule 1-1(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 Nevada Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

7 **Fifth Violation**

8 In making a real property appraisal in a careless or negligent manner, the
9 Respondent made a series of errors that, although individually might not have
10 significantly affected the results of the appraisal, in the aggregate did affect the
11 credibility of the appraisal, and therefore Respondent violated USPAP Standards Rule 1-
12 1(c), as codified in NAC 645C.405(1). The Respondent's actions constitute professional
13 incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant
14 to NRS 645C.460(1)(a) and/or (b).

15 **Sixth Violation**

16 The Respondent's appraisal reports failed to include extraction calculations for the
17 site value; failed to analyze accrued depreciation; and failed to adequately describe and
18 develop the cost approach. As a result, the Respondent violated USPAP Standards Rule
19 1-4(b)(i) and 1-4(b)(iii), as codified in NAC 645C.405(1). The Respondent's actions
20 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for
21 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

22 **Seventh Violation**

23 By failing to analyze all sales of the subject property that occurred within the three
24 (3) years prior to the effective date of the appraisal, the Respondent violated USPAP
25 Standards Rule 1-5(b), as codified in NAC 645C.405(1). The Respondent's actions
26 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for
27 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

1 **Eighth Violation**

2 By failing to reconcile the quality and quantity of data available and analyzed
3 within the approaches used and by failing to explain or justify the disregard of the income
4 approach, the Respondent violated USPAP Standards Rule 1-6(a) and 1-6(b), as codified
5 in NAC 645C.405(1). The Respondent's actions constitute professional incompetence
6 pursuant to NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS
7 645C.460(1)(a) and/or (b).

8 **Ninth Violation**

9 The Respondent failed to clearly and accurately set forth the appraisal in a manner
10 that was not misleading and the Respondent failed to include sufficient information in the
11 appraisal to enable the intended users of the appraisal to understand the report properly.
12 Specifically, the Respondent failed to correctly identify the age of the subject property, or
13 the median marketing time. As a result, the Respondent violated USPAP Standards Rule
14 2-1(a) and Rule 2-1(b), as codified in NAC 645C.405(1). The Respondent's actions
15 constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for
16 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

17 **Tenth Violation**

18 Respondent violated USPAP Standards Rule 2-2(a)(viii) by failing to describe or
19 summarize the information analyzed, the appraisal techniques employed, and the
20 reasoning that supports the analyses, opinions, and conclusions, and the exclusions of
21 approaches. The Respondent also violated USPAP Standards Rule 2-2(a)(x) by failing to
22 describe the support or rationale for the opinion of highest and best use. The Respondent's
23 actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for
24 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

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1 **DISCIPLINE AUTHORIZED**

2 1. Pursuant to NRS 645C.460(2), if grounds for disciplinary action against an
3 appraiser are found to exist for unprofessional conduct, the Commission may revoke or
4 suspend the certificate, place conditions upon the certificate, deny the renewal of his or
5 her certificate, and/or impose a fine up to \$10,000.00 per violation. NRS 645C.480(1)(a) is
6 identified as an additional act of unprofessional conduct.

7 2. Additionally, under NRS Chapter 622.400, the Commission is authorized to
8 impose 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 May 21, 22, and 23, 2019, beginning at approximately 9:00 a.m. each day, or
19 until such time as the Commission concludes its business. On May 21-22, 2019,
20 the Commission meeting will be held at the Nevada State Business Center, 3300
21 W. Sahara Avenue, Nevada Room, Las Vegas, Nevada 89102, with
22 videoconferencing to the State of Nevada, Department of Business and
23 Industry, Division of Insurance, 1818 East College Parkway, 1st floor Hearing
24 Room, Carson City, Nevada 89706.

25 On May 23, 2019, the Commission meeting will be held at will be held at
26 the Nevada State Business Center, 3300 W. Sahara Avenue, Tahoe Room, Las
27 Vegas, Nevada 89102, with videoconferencing to the State of Nevada,
28 Department of Business and Industry, Division of Insurance, 1818 East College

1 Parkway, 1st floor Hearing Room, Carson City, Nevada 89706.

2 **STACKED CALENDAR:** Your hearing is one of several hearings that may
3 be scheduled at the same time as part of a regular meeting of the Commission
4 that is expected to take place on May 21-23, 2019. Thus, your hearing may be
5 continued until later in the day or from day to day. It is your responsibility to
6 be present when your case is called. If you are not present when your case is
7 called, a default may be entered against you, and the Commission may decide
8 the case as if all allegations in the complaint were true. If you need to negotiate
9 a more specific time for your hearing in advance, because of coordination with
10 out of state witnesses or the like, please call Teralyn Lewis, Administration
11 Section Manager, at (702) 486-4036.

12 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an
13 open meeting under Nevada's open meeting law and may be attended by the public. After
14 the evidence and arguments, the Commission may conduct a closed meeting to discuss
15 your alleged misconduct or professional competence. A verbatim record will be made by a
16 certified court reporter. You are entitled to a copy of the transcript of the open and closed
17 portions of the meeting, although you must pay for the transcription.

18 As the Respondent, you are specifically informed that you have the right to appear
19 and be heard in your defense, either personally or through your counsel of choice. At the
20 hearing, the Division has the burden of proving the allegations in the complaint and will
21 call witnesses and present evidence against you. You have the right to respond and to
22 present relevant evidence and argument on all issues involved. You have the right to call
23 and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any
24 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 18 day of April 2019.

DATED the 18th day of April 2019.

7 NEVADA REAL ESTATE DIVISION

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Attorney General

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