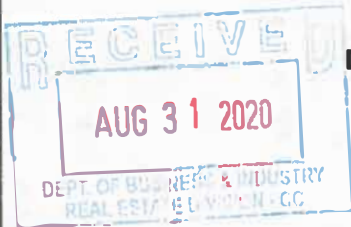


REAL ESTATE DIVISION,

DEPARTMENT OF BUSINESS AND INDUSTRY,

STATE OF NEVADA



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

Petitioner,

vs.

MARIAN W. FINNEGAN
A.0005571-CR

Respondent.

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

Case No. 2018-1615, AP19.020.N

FILED

OCT 05 2020

NEVADA COMMISSION OF APPRAISERS
Kelly Valadez

STIPULATION FOR SETTLEMENT OF DISCIPLINARY

ACTION PURSUANT TO NAC 645C.610 (3)

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, MARIAN W. FINNEGAN (whether one or more hereinafter the "Respondent"), who at relevant times was licensed by the State of Nevada, license number(s) A.0005571-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 June 23, 2020, in LAS VEGAS, NEVADA. Members of the AARC present were John S. Wright, Chairperson, R. Scott Dugan and Kristen Lowe.

AUTHORITY OF THE APPRAISAL ADVISORY REVIEW COMMITTEE. The Appraisal

1 Advisory Review Committee has authority to enter into this Stipulation with the Respondent
2 pursuant to NAC 645C.610 (3).

3 **FINDINGS.** The AARC has found that the Respondent, while licensed, certified or
4 registered as a Nevada Appraiser, committed violations of chapter 645C of Nevada Revised
5 Statutes and Nevada Administrative Code and/or USPAP. A description of the conduct in which
6 these violations were committed is set forth in specificity in the Summary of Facts which is
7 attached hereto as EXHIBIT "A". The Administrator has the authority, pursuant to NAC
8 645C.600 (2), to establish an advisory committee in an attempt to review this matter informally
9 and recommend a resolution.

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

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

23 **Committee Recommendations**

24 Not less than 6 hours Business Practices and Ethics course

25 Not less than 8 hours Residential Report Writing course

26 Not less than 7 hours Sales Comparison course

Not less than 15 hours USPAP course

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2 For a total of not less than 36 hours of continued education to be completed within one year of
3 the Appraisal Commission President signing the Stipulated Agreement, none of the above listed
4 course can be used for license renewal.

5 Once the recommended continued education is completed, the Real Estate Division will audit
6 the respondent's Appraisal Logs, to select Appraisals to be audited for USPAP compliance.

7 RESPONDENT

Agreed

to

stipulation

8
9 **b. Public Record.** RESPONDENT and the DIVISION agree that by entering into this
10 Stipulation, the DIVISION does not concede any defense or mitigation RESPONDENT may assert,
11 and the parties agree that the DIVISION will not publicize the instant disciplinary matter, except
12 as set forth below, and that once this Stipulation is approved and fully performed, the DIVISION
13 will close its file in this matter. RESPONDENT understands that the public records law may
14 require the DIVISION to make available for inspection this Stipulation and related documents.
15 RESPONDENT also understands that the DIVISION may share the content of this Stipulation and
16 related documents with any governmental or professional organization or member of the
17 public;

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

26 **d. Failure to perform; hearing on complaint.**

1 RESPONDENT agrees that if the required education is not completed in the time allowed
2 above, RESPONDENT'S license will be automatically suspended until such time as the fine is
3 paid and continuing education requirement satisfied. The DIVISION may, at its option, rescind
4 this Stipulation and proceed with filing a Complaint before the Commission. Further, recovery
5 actions for the administrative fines may be instituted by the DIVISION;

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

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

17 g. **Attorney fees and other costs.** Each party shall bear its own attorney's fees
18 and other costs not specifically set forth in this Stipulation.

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

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

9 **COMMISSION APPROVAL OF STIPULATION NECESSARY.**

10 Once executed, this Stipulation will be filed with the Commission and will be put on the
11 agenda for approval at its meeting, which by Nevada law is a public meeting. At that time, the
12 DIVISION will recommend to the Commission approval of the Stipulation. RESPONDENT
13 acknowledges and agrees that the Commission may approve this Stipulation, reject it, or
14 suggest different terms which must be communicated to RESPONDENT and accepted or
15 rejected by RESPONDENT before any such amendment shall become effective.

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

21 **STIPULATION IS NOT A BAR TO FUTURE PROCEEDINGS.** This Stipulation shall
22 not constitute an estoppel, merger or bar to any administrative or civil proceeding by the
23 Division with respect to any future matters or other matters that were not consideration for
24 this Stipulation.

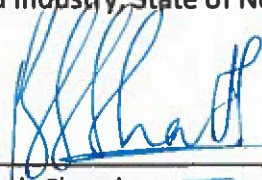
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SO STIPULATED.


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Dated: 08/27/20

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

By: 
Sharath Chandra
Administrator

Dated: 8/25/2020


Respondent

ORDER

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

DATED this 24 day of September, 2020.

NEVADA COMMISSION OF APPRAISERS OF
REAL ESTATE


Appraisal Commission President

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Exhibit A

Violation found:

Violation of Ethics Rule

Ethics Rule: An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

Violation of Record Keeping Rule

Record Keeping Rule: An appraiser must prepare a work file for each appraisal or appraisal review assignment. A work file must be in existence prior to the issuance of any report or other communication of assignment results. A written summary of an oral report must be added to the work file within a reasonable time after the issuance of the oral report. The work file must include: Lines 277....all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other data, information, and documentation

Violation of Competency Rule

Competency Rule: An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment. In all cases, the appraiser must perform competently when completing the assignment.

Violation of Scope of Work Rule

Scope of Work Rule: For each appraisal and appraisal review assignment, an appraiser must:
3. disclose the scope of work in the report.

Violation of Standards Rule 1-2(f)

Standard Rule 1: In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal. In developing a real property appraisal, an appraiser must:

1-2(f): identify any extraordinary assumptions necessary in the assignment

Violation of Standards Rule 2-1(a) and (c)

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. Each written or oral real property appraisal report must:

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

2-1(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

1 **Violation of Standards Rule 2-2(a)(vii)**

2 **2-2(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:**

3 (vii): summarize the scope of work used to develop the appraisal;

4 **Violation of Standards Rule 2-2(a)(viii)**

5 (viii): summarize the information analyzed, the appraisal methods and techniques
6 employed, and the reasoning that supports the analyses, opinions, and conclusions;
7 exclusion of the sales comparison approach, cost approach, or income approach must be explained.

8 **Violation of Standards Rule 2-2(a)(xii)**

9 (xi): clearly and conspicuously: state all extraordinary assumptions and hypothetical
10 conditions; and state that their use might have affected the assignment results.

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13 **Facts and Rationale for Finding:**

14 Investigative case was presented to the Appraisal Advisory Review Committee and violations of the
15 Uniform Standards of Professional Appraisal Practice (USPAP) were found to be proven. Education
16 was recommended.
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