

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 MICHELLE E. LAPADU
11 (License No. A.0006848-CR),

12 Respondent.

Case No. 2018-1363, AP19.005.S

**COMPLAINT AND NOTICE OF
HEARING**

FILED

MAY 05 2020

NEVADA COMMISSION OF APPRAISERS

Kelly Kalady

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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 MICHELLE E. LAPADU
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 herself 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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FACTUAL ALLEGATIONS

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2 1. The Respondent has been licensed by the Division as a Certified Residential
3 Appraiser, License No. A.006848-CR, since July of 2006. The Respondent was previously
4 licensed by the Division as an Appraiser Intern from October 1999 through April 2000
5 and as a Residential Appraiser from April 2000 through July 2006.

6 2. On or about September 26, 2018, the Division received a
7 complaint/statement of fact asserting that the Respondent completed a uniform
8 residential appraisal report ("Appraisal Report") for a private party client containing
9 several violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").

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

12 4. The Respondent's Appraisal Report was prepared for the 14,485 sq. ft. single
13 family residential property located at 605 St. Croix Street, Henderson, NV 89012, APN
14 178-27-216-007 ("Property"), built in 2006.

15 5. The intended use of the appraisal performed by the Respondent was
16 specified as "lender/client to evaluate the property that is the subject of this appraisal for
17 a mortgage finance transaction."

18 6. The intended user of the Respondent's Appraisal Report is identified as
19 "lender/client."

20 7. The Respondent's Appraisal Report contains a value conclusion for the
21 Property of \$7,500,000.00 using the Sales Comparison Approach, and \$6,988,500.00 using
22 the Cost Approach.

23 8. The effective date of Respondent's Appraisal Report is identified as August 8,
24 2018.¹

25 9. The Respondent's Appraisal Report was prepared using the Fannie Mae
26 1004MC report mortgage form.

27 10. The Market Conditions section of the Appraisal Report identifies that
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¹ The 2018-2019 edition of USPAP is applicable₂ to Respondent's Appraisal Report.

1 “[t]ypical sellers pay from 1 to 3 discount points in the marketing of their homes.”

2 11. The Respondent used comparable sales #1, #3, and #6 from Las Vegas,
3 outside the Henderson market, without making any adjustment or discussion of the
4 reason for selection of these comparable sales.

5 12. The Respondent’s Appraisal Report misreports the predominate value in the
6 market and the range of value in the market.

7 13. The Respondent’s Appraisal Report erroneously states that the homes in the
8 neighborhood are reasonably compatible and that the subject property is typical for the
9 neighborhood.

10 14. The Appraisal Report specifies that the land value is \$2,000.000.00.

11 15. The Respondent’s Appraisal Report made the following comparable sales
12 adjustments without explanation as to how the adjustments were developed or quantified:
13 (1) site size; (2) bath count; (3) gross living area; (4) basement area; (5) garage capacity;
14 (6) upgrades; (7) casitas; and (8) balconies.

15 16. The Respondent’s work file includes no support information regarding
16 comparable land sales extraction, allocation computations, or analysis of MLS or county
17 records relative to the subject’s site value estimate.

18 17. The cost approach section of the Appraisal Report does not include
19 supporting information regarding the Marshall and Swift Cost Handbook cost
20 calculations.

21 18. The cost approach section of the Appraisal Report includes an as-is value of
22 site improvements and the work file does not include supporting information as to the
23 development and quantification of the site improvements.

24 19. The Respondent’s Appraisal Report fails to demonstrate experience or
25 competency in the ultra-high value property market and the Respondent’s work file does
26 not show any attempt to gain such competency.

27 20. The Respondent’s Appraisal Report fails to employ the recognized methods of
28 techniques necessary to produce a credible report, including paired sales, statistical

1 analysis, or cost data.

2 21. On or about September 28, 2018, the Division sent the Respondent an
3 opening letter, via certified mail, requesting a copy of his entire appraisal workfile and all
4 supporting documentation.

5 22. On or about October 18, 2018, the Respondent submitted a response to the
6 Division's opening letter, wherein she provided a copy of her Appraisal Report.

7 23. On or about February 22, 2019, the Respondent requested that this matter
8 be heard by the Appraisal Advisory Review Committee ("AARC").

9 24. This matter was heard by AARC on August 6, 2019, at which time a
10 resolution was proposed and rejected by the AARC.

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

16 **VIOLATIONS OF LAW**

17 The Respondent failed to prepare the appraisal report for the Property in
18 Compliance with the Standards of the Appraisal Foundation. These Standards are
19 published in the Uniform Standards of Professional Appraisal Practice ("USPAP")
20 adopted by the Appraisal Standards Board of the Appraisal Foundation, as authorized by
21 Congress and adopted in Nevada by NAC 645C.400.²

22 **First Violation**

23 The USPAP ETHICS RULE requires that an appraiser must not willfully or
24 knowingly violate the requirements of the RECORD KEEPING RULE; and must not
25 perform an assignment in a grossly negligent manner.

26 Respondent violated the USPAP ETHICS RULE, as codified in NAC 645C.405(1),

27 _____
28 ² The 2016-2017 edition of USPAP, effective January 1, 2016 through December 31, 2017, is
applicable to and utilized for this Complaint.

1 by performing the assignment in a grossly negligent matter. The work file contains no
2 information as to how the adjustments were developed or quantified. The Respondent's
3 actions constitute unprofessional conduct, pursuant to NRS 645C.470(2) and grounds for
4 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

5 **Second Violation**

6 The USPAP RECORD KEEPING RULE requires that an appraiser must prepare a
7 work file for each appraisal review assignment. The work file must be in existence prior to
8 the issuance of any report or other communication of assignment results. The work file
9 must include all other data, information, and documentation necessary to support the
10 appraiser's opinions and conclusions and to show compliance with USPAP, or references
11 to the location(s) of such other data, information, and documentation.

12 The Respondent violated the USPAP RECORD KEEPING RULE, as codified in
13 NAC 645C.405(1), by failing to keep and maintain true copies of all written reports,
14 documented on any type of media and all other data, information, and documentation
15 necessary to support the appraiser's opinions and conclusions, and to show compliance
16 with USPAP, or references to the location(s) of such other data, information or
17 documentation. The Respondent's comparable sale adjustments fail to provide supporting
18 information for the adjustments of site value, site improvements, site size, bathroom
19 count, gross living area, basement area, garage capacity, balconies, or casitas. The
20 Respondent's actions constitute unprofessional conduct, pursuant to NRS 645C.470(2)
21 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

22 **Third Violation**

23 The COMPETENCY RULE requires that an appraiser must: (1) be competent to
24 perform the assignment; (2) acquire the necessary competency to perform the assignment;
25 or (3) decline or withdraw from the assignment.

26 The Respondent violated the USPAP COMPETENCY RULE, as codified in NAC
27 645C.405(1), by failing to demonstrate competency when she used comparable sales from
28 well outside the defined market area and failed to support adjustments or her cost

1 approach values. This is unprofessional conduct pursuant to NRS 645C.470(2) and
2 grounds for disciplinary action, pursuant to Nevada Revised Statutes ("NRS")
3 645C.460(1)(a) and/or (b).

4 **Fourth Violation**

5 USPAP Standards Rule 1-1(a) requires that in developing a real property
6 appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those
7 recognized methods and techniques that are necessary to produce a credible appraisal.

8 The Respondent violated USPAP Standards Rule 1-1(a), as codified in NAC
9 645C.405(1), by failing to include evidence of any analysis, including paired sales,
10 statistical analysis, or supported cost data. The Respondent also failed to include
11 supporting information or quantification regarding the development of site value or site
12 improvements. The Respondent's work file failed to include evidence or analysis of
13 reconciliation of the cost sources with respect to cost data. This is unprofessional conduct
14 pursuant to NRS 645C.470(2) and grounds for disciplinary action, pursuant to Nevada
15 Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

16 **Fifth Violation**

17 USPAP Standards Rule 1-1(b) requires that an appraiser developing a real
18 property appraisal must not commit a substantial error of omission or commission that
19 significantly affects an appraisal.

20 The Respondent violated USPAP Standards Rule 1-1(b), as codified in NAC
21 645C.405(1), by utilizing comparable sales located outside the subject's defined market
22 area and failed to analyze comparable sales located within the subject's neighborhood.
23 This is unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary
24 action, pursuant to Nevada Revised Statutes ("NRS") 645C.460(1)(a) and/or (b).

25 **Sixth Violation**

26 USPAP Standards Rule 1-1(c) requires that an appraiser must not render services
27 in a careless or negligent manner, such as by making a series of errors that, although
28 individually might not significantly affect the results of an appraisal, in the aggregate

1 affects the credibility of those results.

2 The Respondent violated USPAP Standards Rule 1-1(c), as codified in NAC
3 645C.405(1), by completing the report without providing support for the adjustments
4 made to the sales comparison approach. In addition, the site value, dwelling and garage
5 price/square foot calculations, and the as-is value of the site improvements are not
6 supported. The Respondent's actions constitute professional incompetence pursuant to
7 NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
8 and/or (b).

9 **Seventh Violation**

10 USPAP Standards Rule 1-3(a) requires an appraiser to develop a credible market
11 value opinion by identifying and analyzing the effect on use and value of existing land use
12 regulations, reasonably probable modifications of such land use regulations, economic
13 supply and demand, the physical adaptability of the real estate, and market area trends.

14 The Respondent violated USPAP Standards Rule 1-1(3)(a), as codified in NAC
15 645C.405(1), by misstating the 1004MC market conditions and failing to properly analyze
16 and report the market area trends. The Reviewer indicated the single unit pricing range
17 is not representative of the neighborhood, and reported the pricing range for the
18 neighborhood is \$799,000 to \$7,750,000 with a median predominant price of \$1,200,000.
19 the single unit pricing range of the neighborhood The Respondent's actions constitute
20 professional incompetence pursuant to NRS 645C.470(3) and grounds for disciplinary
21 action pursuant to NRS 645C.460(1)(a) and/or (b).

22 **Eighth Violation**

23 USPAP Standards Rule 1-3(b) requires an appraiser to develop a credible market
24 opinion by developing an opinion of the highest and best use of the real estate. An
25 appraiser must analyze the relevant legal, physical, and economic factors to the extent
26 necessary to support the appraiser's highest and best use conclusion(s).

27 The Respondent violated USPAP Standards Rule 1-3(b), as codified in NAC
28 645C.405(1), by checking the highest and best use box on the form, but failing to provide

1 any discussion within the report or evidence in the work file as to how this was
2 developed.. The Respondent's actions constitute professional incompetence pursuant to
3 NRS 645C.470(3) and grounds for disciplinary action pursuant to NRS 645C.460(1)(a)
4 and/or (b).

5 **Ninth Violation**

6 USPAP Standards Rule 1-4(a) requires an appraiser developing a real property
7 appraisal to collect, verify, and analyze all information necessary for credible assignment
8 results. When sales comparison approach is necessary for credible assignment results, an
9 appraiser must analyze such comparable sales data as are available to indicate a value
10 conclusion.

11 The Respondent violated USPAP Standards Rule 1-4(a), as codified in NAC
12 645C.405(1), failing to analyze two sales (1) 637 St. Croix St. (9,760sf) and (2) 1504
13 MacDonald Ranch Drive (14,362sf), both of which are of similar age, within the same
14 subdivision, and sold within the year prior to the date of value. The Respondent's actions
15 constitute professional incompetence pursuant to NRS 645C.470(3) and grounds for
16 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

17 **Tenth Violation**

18 USPAP Standards Rule 1-4(b)(i) and 1-4(b)(ii) requires an appraiser developing
19 real property appraisal to collect verify, and analyze all information necessary for credible
20 assignment results. When a cost approach is necessary for credible assignment results, an
21 appraiser must: (i) develop and opinion of site value by an appropriate appraisal method
22 of technique; (ii) analyze such comparable cost data as are available to estimate the cost
23 new of the improvements (if any).

24 The Respondent violated USPAP Standards Rule 1-4(b)(i) and 1-4(b)(ii), as codified
25 in NAC 645C.405(1), by failing to include supporting information in her work file
26 regarding comparable land sales, extraction or allocation computations, or analysis of
27 MLS or county records relative to the subject's site value estimate. The Respondent's
28 actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for

1 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

2 **Eleventh Violation**

3 USPAP Standards Rule 1-6(b) requires an appraiser developing a real property
4 appraisal must reconcile the applicability and relevance of the approaches, methods and
5 techniques used to arrive at the value conclusion(s).

6 Respondent violated USPAP Standards Rule 1-6(b), as codified in NAC
7 645C.405(1), by failing to adequately reconcile the statement made in the report that
8 "Greatest weight given to the sales comparison approach. This is supported by the Cost
9 Approach, although it is not required by Fannie Mae, but is a supplemental standard of
10 the mortgage company. The income approach was not developed." The Respondent's
11 actions constitute unprofessional conduct pursuant to NRS 645C.470(2) and grounds for
12 disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

13 **Twelfth Violation**

14 USPAP Standards Rule 2-1(a) requires each written or oral real property appraisal
15 report to clearly and accurately set forth the appraisal in a manner that will not be
16 misleading.

17 Respondent violated USPAP Standards Rule 2-1(a), as codified in NAC
18 645C.405(1), by utilizing inferior comparable sales located outside of the market area,
19 overstating cost data, and not analyzing the subject's previous listing history; thereby,
20 making the report misleading. The Respondent's actions constitute unprofessional
21 conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to
22 NRS 645C.460(1)(a) and/or (b).

23 **Thirteenth Violation**

24 USPAP Standards Rule 2-1(b) requires each written or oral real property appraisal
25 report to contain sufficient information to enable the intended users of the appraisal to
26 understand the report properly.

27 Respondent violated USPAP Standards Rule 2-1(b), as codified in NAC
28 645C.405(1), by failing to include sufficient information and/or discussion regarding the

1 neighborhood analysis relative to the subject, the selection of the comparable sales and
2 listings, and the quantification of the adjustments, including no adjustment for location.
3 The Respondent's actions constitute unprofessional conduct pursuant to NRS 645C.470(2)
4 and grounds for disciplinary action pursuant to NRS 645C.460(1)(a) and/or (b).

5 **Fourteenth Violation**

6 USPAP Standards Rule 2-2(a)(viii) requires the content of an appraisal report to be
7 consistent with the intended use of the appraisal and, at a minimum: (viii) summarize the
8 information analyzed, the appraisal methods and techniques employed, and the reasoning
9 that supports the analyses, opinions, and conclusions; exclusions of the sales comparison
10 approach, cost approach, or income approach must be explained. The appraiser must
11 provide sufficient information to enable the client and intended users to understand the
12 rationale for the opinions and conclusions, including reconciliation of the data and
13 approaches, in accordance with Standards Rule 1-6.

14 Respondent violated USPAP Standards Rule 2-2(a)(viii), as codified in NAC
15 645C.405(1), by failing to include a summary of the information analyzed, the methods
16 and techniques employed, and the reason that supports the analysis, opinions, and
17 conclusions. The appraisal report includes no evidence to adequately explain the
18 exclusions of the income approach. The Respondent's actions constitute unprofessional
19 conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action pursuant to
20 NRS 645C.460(1)(a) and/or (b).

21 **Fifteenth Violation**

22 USPAP Standards Rule 2-2(a)(x) requires that the content of an appraisal report
23 must be consistent with the intended use of the appraisal and, at a minimum when an
24 opinion of highest and best use was developed by the appraiser, summarize the support
25 and rationale for that opinion.

26 Respondent violated USPAP Standards Rule 2-2(a)(x), as codified in NAC
27 645C.405(1), by failing to include a discussion in the report or evidence in the work file as
28 to how the highest and best use was determined. The Respondent's actions constitute

1 unprofessional conduct pursuant to NRS 645C.470(2) and grounds for disciplinary action
2 pursuant to NRS 645C.460(1)(a) and/or (b).

3 **DISCIPLINE AUTHORIZED**

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

9 2. Additionally, under NRS Chapter 622.400, the Commission is authorized to
10 impose the costs of the proceeding upon the Respondent, including investigative costs and
11 attorney's fees, if the Commission otherwise imposes discipline on the Respondent.

12 3. Therefore, the Division requests the Commission to impose such discipline as
13 it determines is appropriate under the circumstances and to award the Division its costs
14 and attorney's fees for this proceeding.

15 **PLEASE TAKE NOTICE** that a disciplinary hearing has been set to consider this
16 Administrative Complaint against the above-named Respondent in accordance with
17 Chapter 233B and Chapter 645C of the Nevada Revised Statutes and Chapter 645C of the
18 Nevada Administrative Code.

19 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled
20 for September 15, 16, and 17, 2020, beginning at approximately 9:00 a.m. each
21 day, or until such time as the Commission concludes its business. The
22 Commission meeting will be held at the Nevada State Business Center, 3300 W.
23 Sahara Avenue, Nevada Room, Suite 400, Las Vegas, Nevada 89102, with
24 videoconferencing to the State of Nevada, Department of Business and
25 Industry, Division of Insurance, 1818 East College Parkway, 1st floor Hearing
26 Room, Carson City, Nevada 89706.

27 **STACKED CALENDAR:** Your hearing is one of several hearings that may
28 be scheduled at the same time as part of a regular meeting of the Commission

1 that is expected to take place on September 15-17, 2020. Thus, your hearing may
2 be continued until later in the day or from day to day. It is your responsibility
3 to be present when your case is called. If you are not present when your case is
4 called, a default may be entered against you, and the Commission may decide
5 the case as if all allegations in the complaint were true. If you need to negotiate
6 a more specific time for your hearing in advance, because of coordination with
7 out of state witnesses or the like, please call Kelly Valadez, Commission
8 Coordinator, at (702) 486-4606.

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

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

22 You have the right to request that the Commission issue subpoenas to compel
23 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
24 you may be required to demonstrate the relevance of the witnesses' testimony and/or
25 evidence. Other important rights you have are listed in NRS Chapter 645C, NRS
26 Chapter 233B, and NAC Chapter 645C.


27 DATED the ____ day of May, 2020.

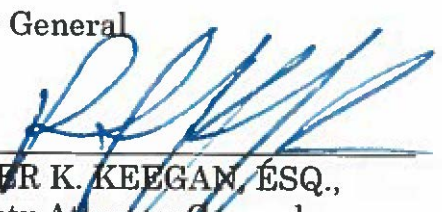
DATED the 3rd day of May, 2020.

28 NEVADA REAL ESTATE DIVISION

AARON D. FORD

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